Country Report

CANADA

An analysis of the Private Sponsorship of Refugees (PSR) program and the Economic Mobility Pathways Pilot (EMPP)

D4.5 Final Country Report

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Executive summary

Background

The Global Compact on Refugees (GCR) recognises complementary pathways for admission to third countries as an additional 'solution' to resettlement and as an expression of solidarity towards countries and communities hosting large numbers of refugees. The 2019 UNHCR 'Three-Year Strategy on Resettlement and Complementary Pathways' calls for a sustainable and predictable growth in complementary pathways, with the goal of expanding access to those channels up to two million people by the end of 2028, a target that is double the one million places for resettlement aimed for during the same period.

Canada stands at the forefront of international initiatives aimed at sharing 'best practices' in the field of complementary pathways and in promoting the transfer of knowledge and expertise developed in the Canadian context to other countries around the world. Canada's Private Sponsorship of Refugees (PSR) program rests on a foundation built over its 40-year long history, with a highly developed institutional and legal framework, and a wide network of civil society organisations and private citizens involved in the sponsoring process.

In 2016, the government of Canada, in partnership with UNHCR and a group of private foundations and academic institutions, launched the Global Refugee Sponsorship Initiative (GRSI), a multi-stakeholder platform which aims to support the adoption of private sponsorship programs in countries across different world regions relying on the experience of Canada's well-established model.

Canada also takes a leadership role in the development of pathways for the admission of refugees through labour migration opportunities. Launched in 2018, the Economic Mobility Pathways Pilot (EMPP) enables the resettlement of a relatively small but growing number refugees through Canada's existing labour migration channels.

The EMPP's first phase aimed at assessing the ability of refugees with certain skill profiles from some East Africa and the Middle East countries to access Canada's permanent labour pathways, while also documenting existing barriers and developing new practices to address identified challenges. Following an initial announcement made in June 2020, the government of Canada launched the EMPP second phase in December 2021, with the goal of admitting 2,000 refugee workers and their family members over the following years.

Canada is committed to share the EMPP's best practices and lessons learned within the framework of the Global Task Force on Refugee Labour Mobility, a GCR-linked initiative that aims at scaling up labour mobility pathways for refugees around the world.

Objectives and methodology

This ASILE Country Report provides an analysis of the key features and implementation processes of the PSR program and the EMPP. In line with the conceptual framework driving research under Work Package 4, it focuses on three key dimensions: a) selection process and eligibility criteria, b) refugee vulnerability, and c) refugee right to work.[1] To that aim, the Report relies on the expanding literature discussing the normative and legal issues associated with the design and implementation of complementary pathways to admission. The analysis pays specific attention to aspects of non-discrimination, procedural fairness, and access to justice, including the role assigned to refugee agency and autonomy in accessing and navigating these two instruments.

The methodological approach combines extensive desk research with 32 semi-structured interviews with key stakeholders – Canadian government officials representing multiple departments, international organisation representatives, members of the legal community, civil society members, and refugee leaders – as well as 12 interviews with beneficiaries of international protection in Canada. These interviews aimed at investigating stakeholders and refugees' first-hand experiences either designing, executing or navigating the two selected mechanisms. They further aimed at exploring respondents' opinions on the effectiveness and fairness of decision-making procedures, as well as their consistency with international refugee and human rights standards.

[1] Cathryn Costello, M. Sanjeeb Hossain, Maja Janmyr, Nora M. Johnsen, & Lewis Turner, Refugee Recognition and Resettlement, ASILE Working Paper, 2022, https://www.asileproject.eu/asile-paper-on-refugee-recognition-and-resettlement/

Key findings

Selection process and eligibility criteria

- Complementary pathways are predicated on their 'additionality' to state-led resettlement programs. They aim at providing additional channels for admission to people in need of protection that supplement existing admissions places determined on the basis of UNHCR resettlement criteria. Private sponsorship falls within the scope of complementary pathways as it entrusts individuals, groups of individuals or organisations (rather than UNHCR or state authorities) with identifying, selecting, and supporting the entry and stay of individuals in need of international protection.

- It is important to note that Canada's PSR program largely precedes the 'language' of complementary pathways. Since its formal establishment in 1979, it has been conceived as a structural component of Canada's refugee resettlement system, alongside Canada's government-assisted refugee resettlement programme. The PSR program's success and continuous support by Canadian civil society over the last forty years has relied on the principle of 'naming', which provides the possibility for private organisations and groups of citizens in Canada to refer specific individuals for admission.

- While Canadian citizens have shown a high interest in welcoming 'unknown' individuals in specific situations, for example as a response to the Syrian crisis from 2015 onwards, the functioning of the PSR program in 'normal times' has consolidated its character as a privileged channel for reuniting extended family members or individuals with ethnic or cultural connections in Canada.

- Since 2017, the volume of privately sponsored refugees admitted in Canada has largely outnumbered that of Government Assisted Refugees (GARs). This circumstance has led civil society organisations and academics to express concerns about a possible shift towards a model of 'privatised resettlement', whereby public authorities increasingly rely on financial and operational support from private actors to fulfil their international protection commitments. Furthermore, the functioning of the PSR program as a tool for extended family reunification, rather than for targeting refugees with high protection needs or vulnerabilities, calls into question the overall humanitarian dimension of Canada's approach to refugee resettlement.

- The EMPP falls within the group of complementary pathways defined by UNHCR as 'third country employment opportunities', that is safe and regulated avenues enabling refugees' entry and stay in another country for the purpose of employment.

- The key objective of the EMPP is to ensure the effective 'matching' of refugee workers with Canadian employers. The program aims to ensure the participation of employers driven by the double purpose of covering skills shortages and supporting the admission of people in need of protection. In its pilot phase (2018-2020), the EMPP facilitated the admission of a small group of refugees (6 refugee workers and 9 family members). Under phase 2 (2021 onwards), Canadian authorities committed to increase the number of EMPP admissions to at least 500 individuals, while exploring the establishment of a scalable and sustainable model for refugee labour mobility. This goal was later raised to 2,000 EMPP admissions to uphold campaign promises made by the Liberal Government following the September 2021 Canadian federal election.

- Access to the PSR program is subject to applicants' fulfilment of specific eligibility and admissibility criteria under Canadian law. Since 2012, some categories of private sponsors (so-called 'Groups of Five' and Community Sponsors) can only sponsor refugees who first obtain a positive refugee determination from UNHCR or a country of asylum. This requirement does not apply to Sponsorship Agreement Holders (SAHs), which are registered organisations that have signed an agreement with the Canadian government allowing them to sponsor a certain number of refugees each year.

- According to the government of Canada, the rationale for requiring proof of applicants' refugee status lies in an attempt to reduce lengthy processing times and prevent backlogs arising from large numbers of unfounded applications. However, this requirement is problematic insofar as it excludes from eligibility refugees residing in areas where it is impossible or difficult to access refugee status determination procedures.

- When setting the eligibility requirements for the EMPP, the government of Canada has at least partially considered the challenges that many refugees around the word face when trying to obtain documented refugee status. A candidate is considered eligible for the EMPP if they are in possession of any of the following three documents: a) positive Refugee Status Determination (RSD) document from either the UNHCR or a

refugee-hosting state; b) registration as an asylum seeker abroad; c) a 'person of concern letter' issued by the UNHCR for the purposes of EMPP.

- The level of procedural fairness and access to justice available to overseas refugee applicants is limited compared to that accorded to individuals seeking protection through Canada's in-land asylum system. Overseas applicants also have limited opportunities at their disposal to challenge a negative decision on their application.

- Failed applicants under the PSR program, for example, do not have access to an appeal procedure on the merits. The only possibility for obtaining redress consists in lodging an appeal for judicial review at the Federal Court of Canada on procedural fairness grounds. Access to the Federal Court, however, is hampered by substantial legal barriers and strictly dependent on the availability on the part of applicants (or their sponsors) of substantial financial resources to sustain litigation expenses in Canada.

- Besides revising formal eligibility criteria to address identified barriers, expanding equitable access to the PSR program and the EMPP requires addressing potential distortions stemming from the selection logic underpinning the two instruments. In the case of the PSR program, sponsors' tendency to privilege family-related connections over 'unknown' refugees could be mitigated by offering refugees alternative options for family reunification. For example, by establishing a tailored family reunification stream for refugees covering additional categories of family members than those foreseen under Canadian family reunification law.

- Interviewed stakeholders identified several potential options to ensure more equitable access to the EMPP program. In its current scope, the EMPP is linked only to a group of economic pathways facilitating workers' permanent residency. The vast majority of migrant workers admitted to Canada every year, however, first arrive on a temporary work permit, which foresees quicker and simpler application procedures than permanent residency.

- A first option to expand accessibility through the EMPP would thus be to extend its scope to cover temporary work permits, in this way opening up access to a wide range of possible beneficiaries. To ensure full guarantee of protection safeguards, admission of EMPP beneficiaries through temporary labour permits would need to be

accompanied by a well-defined transition plan to permanent residence, possibly by means of an accelerated process.

- Another option worth exploring would be to build on the EMPP experience to facilitate the admission of refugee workers as permanent residents by expanding permanent residence options for professional profiles not adequately covered by existing permanent residence streams. As proposed by some Canadian experts interviewed for this Report, a new permanent pathway specifically designed for enabling admission of agricultural workers could build on the EMPP model to allow for the entry and successful settlement of clusters of refugees as agricultural workers in Canadian rural areas.

- In December 2022, Government of Canada announced the establishment of a 'trusted partner' model, which would enable trusted NGO partners to directly refer and support EMPP candidates. This 'trusted partner' model could potentially serve the objectives of achieving wider EMPP eligibility and expediting application processing times. However, its scope and procedural aspects should be further specified to ensure its alignment with international protection standards. While the model currently envisions training and quality assurance reviews for trusted NGOs, partners', specific attention must guarantee adequate oversight and review of referral procedures conducted by those NGOs to ensure they are held accountable to high standards of equity and impartiality when identifying EMPP beneficiaries.

Vulnerability

- The two complementary pathways analysed in this Report do not envisage a specific focus on refugee vulnerability at the selection stage. In principle, this circumstance should not be considered as an issue, given the availability of an alternative admission channel, i.e., state-supported resettlement, operating on the basis of vulnerability criteria. However, in the period 2017-2019, the number of refugees admitted yearly through the PSR program has almost doubled those admitted through the state-supported program. This trend, if confirmed by admissions number in the post-pandemic phase, casts doubt on the commitment by the Canadian government to stick to the principle of 'additionality' and ensure a balance between the two main streams of its resettlement program.

- The Canadian government has launched mechanisms to incentivise sponsor groups to support UNHCR-referred refugees through the Blended Visa Office-Referred Program (BVOR), and refugees with special vulnerabilities under the Joint Assistance Program (JAP). However, these two programs represent only a limited share of the overall PSR intake, which remains largely composed of 'named' sponsorships based on family or other personal links with individuals in Canada.

- Vulnerability is, by design, not a factor considered in the EMPP selection process. The EMPP aims at promoting a different approach, which puts refugees' professional experience and skills at the core, rather than vulnerabilities and protection needs. While instrumental in engaging Canadian employers, the selection of refugees based on labour markets demands driving the EMPP's approach departs from the focus on protection needs and vulnerability underpinning UNHCR resettlement.

- This Report further underlines how the 'flexible' and discretionary nature of 'complementary pathways' may also contribute to co-creating what scholars have referred to as 'structural vulnerability'. A focus on structural vulnerability implies looking at the social conditions that exacerbate individuals' or groups' specific vulnerabilities, and notably the ways in which situations of vulnerability are impacted by the design and enforcement of migration laws and policies.

- Reducing the causes that engender and perpetuate structural vulnerability implies focusing on aspects such as removing the barriers that may prevent applicants from navigating complex admission procedures, accessing channels for recourse in case of a wrong decision, and receiving adequate levels of institutional support during the settlement process.

- Addressing structural vulnerability further implies fostering individuals' *agency* and their ability to take autonomous decisions, in this way reducing their dependency from state support or from the support provided by their sponsors. This need is not limited to the admission stage, but extends to the post arrival phase, and notably to the range of relations that admitted refugees establish with private and public actors entrusted with providing settlement support.

- The PSR relies on sponsoring groups to provide psychosocial support to refugees and help them address any specific need they may face upon arrival. However, not all

sponsoring groups may be equally well placed to address specific needs and support individuals facing potential situations of vulnerability. Refugees resettled through the PSR program have access to a range of government-funded service provider organisations (SPOs), which are expected to complement the support provided by sponsors. Lack of coordination and sometimes tensions between sponsoring groups and settlement workers or counsellors have been documented, negatively impacting on the level of support provided to refugees. Evidence of this issue has led government authorities and sponsor organisations to develop several joint initiatives aimed at ensuring coordinated responses to complex needs or areas of vulnerability that refugees may face upon arrival.

- A 2021 Audit carried out by the Government of Canada on the implementation of the PSR program pointed to a set of integrity concerns, including cases of inadequate support by some sponsor groups. This evidence reinforces the call for establishing a structured monitoring framework to ensure oversight of all the actors involved. Interviewees additionally underlined the need to guarantee that 'safety valves' through state services are in place for refugees in case of a 'sponsorship breakdown' or when evidence exists that sponsors do not provide an adequate level of support to newcomers.

- Refugees participating in the EMPP arrive through economic migration pathways, which means the level of settlement support available to them differ from that available to resettled refugees, in particular those arriving through the PSR stream who can rely on the personalised support provided by their sponsors.

- To fill this gap, EMPP phase one relied on a patchwork of informal collaboration between employers, local governments, and civil society organisations. Interviewees pointed to the need for more systematic collaboration among key actors on the ground to increase the level and quality of support provided to beneficiaries. Phase two of the EMPP is going to test two different approaches - a 'community-driven model' and a 'sector-driven model' – which hold promising potential when it comes to providing wraparound support to EMPP participants.

- The current monitoring of EMPP participants' experiences and needs, however, remains predominantly ad hoc, relying on diverse tools and procedures developed by NGO partners and community organizations. Standardizing and formalizing the

monitoring of EMPP participants' experiences would be expedient to preventing and addressing emerging situations of vulnerability.

Right to work

- Both the PSR program and the EMPP put a strong emphasis on accelerated labour market integration of refugees. The fact that both PSR and EMPP beneficiaries are granted permanent residence upon arrival implies they benefit from the right to work anywhere in Canada and the generous set of social benefits associated with that status.

- Furthermore, privately sponsored refugees are expected to benefit from the personalised support provided by their sponsors, who can leverage their networks and help navigate the labour market. Along the same line, the EMPP is driven by the promise of immediate labour market integration, as refugees participating in the program are selected based on their ability to fill specific job positions in the Canadian labour market.

- However, this Report underlines how formal access to the right of work is not in itself a guarantee that refugees arriving through the PSR program and EMPP can have access to decent work, understood in relation to the freedom, effective accessibility, and quality of work. Interviewees stressed the need to respect the autonomy of refugees and their freedom to take up a job offer independently from the willingness or expectations of their sponsors. In addition, they underlined the need to set in place labour market inclusion policies that support refugees in taking up jobs that are commensurate to their skills levels and provide access to labour mobility and upskilling opportunities, in line with international labour law standards and decent work principles.

- In the framework of the EMPP implementation, interviews conducted for this Report identified the prioritisation of a *cluster hiring* model as a key option to expand refugee workers' access to decent work in Canada. Cluster hiring will provide added psycho-social support to resettled refugee workers by establishing communities of individuals from similar locations with similar experiences, while allowing to streamline the provision of support by employers', institutions, and NGOs. Building these support

systems will be especially beneficial to individuals resettled to Canada's rural communities and territories, where many job vacancies lie.

- Interviews further pointed to the need that settlement policies and programmes incorporate a gender dimension. For example, refugee women may experience language training barriers due to gendered divisions of labour in the family (e.g., due to their caregiving roles). Additional evidence is needed on how and to what extent gender differences impact on employment perspectives. The analysis conducted in this Report underlines as key to tailor settlement services, including language training and employment programs, to the specific needs of refugee women.

1. Introduction

The United Nations Global Compact on Refugees' (GCR) emphasises the objective of expanding the availability of "complementary pathways for admission of persons with international protection needs". This call has created new incentives for the sharing of experiences among international stakeholders in this policy area. Instruments adopted by Canada have been at the centre of the ongoing 'learning' process: both a long-standing and well-established initiative, the Private Sponsorship of Refugees (PSR) program, as well as a recently adopted instrument focusing on refugees' labour mobility, the Economic Mobility Pathways Pilot (EMPP), have been identified as 'promising practices' that could be potentially replicated in other jurisdictions around the world.

The establishment of the Global Refugee Sponsorship Initiative (GRSI)[2] in 2016 underscores the ambition of the Canadian government to propose its PSR program as a 'model' for other states when developing their own initiatives in this field.[3] The GRSI reflects the assumption that some of the key features of the Canadian sponsorship program can be successfully transferred to countries in geographical regions (such as Europe or South America and Australia), which do not present the legal, institutional and political features similar to those that favoured the emergence of that model in Canada.[4]

Along the same line, the Economic Mobility Pathways Pilot (EMPP) has been described by UNHCR as putting Canada at the "forefront of exploring the potential for the international

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[2] The GRSI is a joint initiative that includes the following partners: the Government of Canada, the United Nations High Commissioner for Refugees (UNHCR), the Open Society Foundations, the Giustra Foundation, the Shapiro Foundation, and the University of Ottawa. See the GRSI website: https://refugeesponsorship.org/who-we-are

[3] The GCR refers to the objective of increasing the availability and predictability of complementary pathways to protection, including by establishing "private or community sponsorship programmes that are additional to regular resettlement, including community-based programmes promoted through the Global Refugee Sponsorship Initiative (GRSI)", par. 95.

[4] GRSI, 2019. 'Guidebook and Planning Tools based on Canada's Model'. The Guidebook states that Canada PSR program is "just one example of how government and civil society can collaborate to provide protection to refugees and support their settlement once they arrive in their new country. It is not the only way, but it is one strong example from which other countries and civil society actors may draw inspiration". Available online: https://rcusa.org/wp-content/uploads/2020/04/Building-Blocks-of-Community-Sponsorship.pdf

recruitment of refugees through labour mobility programs".[5] The EMPP was launched in 2018 with the initial aim of admitting a small group of refugees through Canada's existing economic immigration channels. In December 2021, Canada launched phase two of EMPP, with the goal of admitting at least 500 refugees and their families over the following two years.[6] In parallel, the Canadian government has committed to sharing the EMPP experience and lessons learnt in its role of co-chair of the UNHCR Global Task Force on Refugee Labour Mobility, a GCR-linked initiative that aims to scale up labour mobility pathways for refugees.[7]

This Final Country Report provides a description of the key features and implementation processes of the PSR program and the EMPP. It relies on the expanding body of literature exploring the normative and policy questions raised by complementary pathways, and notably the assessment of their alignment with international refugee, human rights and labour law standards. In line with the ASILE WP4 research framework, the analysis focuses on three key dimensions: a) selection process and eligibility criteria, b) refugee vulnerability, and c) refugee right to work. While acknowledging the diversity and different rationales of these two instruments, the comparative approach followed by the Report highlights a set of common policy and legal issues concerning their design and implementation process, which may be of interest to policy makers and other stakeholders when considering the potential transferability of similar experiences to other countries.[8]

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5 See UNHCR Canada, Economic immigration of skilled refugees, https://www.unhcr.ca/in-canada/other-immigration-pathways-refugees/economic-immigration-skilled-refugees/

6 See Government of Canada, Public policy to support the Economic Mobility Pathways Pilot (EMPP) – Phase 2, 4 March 2022, https://www.canada.ca/en/immigration-refugees-citizenship/corporate/mandate/policies-operational-instructions-agreements/public-policies/economic-mobility-pathways-pilot-phase-2.html

7 Ibid. See also Government of Canada, Global Task Force on Refugee Labour Mobility, https://www.canada.ca/en/immigration-refugees-citizenship/corporate/mandate/corporate-initiatives/global-task-force-refugee-labour-mobility.html

8 S. Carrera, L. Vosyliute, L. Brumat and N. Feith Tan, 'Implementing the United Nations Global Compact on Refugees? Global Asylum Governance and the Role of the European Union', EUI Policy Brief, Issue 2021/26, June 2021, p. 7, https://cadmus.eui.eu/bitstream/handle/1814/71755/PB_2021_26.pdf?sequence=5

1.1. Methodology and Structure

The methodological approach used for this Report combines extensive desk research with 32 semi-structured interviews with Canadian government officials from multiple departments, international organisation representatives, members of the legal community, civil society representatives, and refugee leaders (see Appendix 1).[9] In addition, 12 interviews were conducted with beneficiaries of international protection in Canada, including privately sponsored refugees, government assisted refugees and EMPP beneficiaries (see Appendix 2).[10] The interviews aimed to synthesise policy makers, practitioners and beneficiaries' first-hand experiences either executing or navigating the two mechanisms under consideration. Interviews were conducted in two rounds: the first round, took place from March until November 2021, while the second one spanned from April until September 2022.[11]

Interviews were conducted based on a standard questionnaire shared by all six ASILE case studies, which was developed in tandem with the Work Package 4 (WP4) coordination team.[12] This common questionnaire investigates the key themes of refugee status determination, vulnerability, and the right of decent work. The list of questions used for the Canada case study was tailored to reflect the specificities of the two policy instruments (PSR program and EMPP) covered in this Report, as well as the specific areas of expertise of each individual interview subject. The use of a set of pre-determined questions did not preclude the interview conversations from following their natural course, providing individuals the opportunity to share their experiences and raise additional points not

[9] All interviewees were on Canadian territory when the interview was conducted. All interviews were conducted digitally.

[10] These included three individuals interviews and a group interview (online) with nine beneficiaries of protection which was organized on 17.09.2022 in collaboration with the Refugee Women's Network, which is the Canadian member of the ASILE Civil Society Group. See ASILE Civil Society Group webpage at: https://www.asileproject.eu/refugee-womens-network-canada-csg/

[11] Findings from the first round of interviews were included in the D4.2 Interim Country Report: Canada. Available online at: https://www.asileproject.eu/wp-content/uploads/2022/05/D4.2_Canada_Interim-Country-Report.pdf

[12] Case studies covered by ASILE WP4 research cover six countries: Bangladesh, Brazil, Canada, Jordan, South Africa, and Turkey.

directly addressed by the questionnaire. Interview transcriptions and video recordings were then analysed to identify common themes.[13]

Key findings and policy options identified during the two rounds of interviews were discussed with a group of selected researchers and representatives from civil society organisations during the Canada's ASILE Regional Workshop, jointly organised by the Centre for Criminology & Sociolegal Studies of the University of Toronto and the Centre for European Policy Studies (CEPS) on 7 September 2022.[14]

This Country Report is structured as follows. Section 2 introduces the rapidly expanding literature exploring the legal and policy issues associated with the design and implementation of 'complementary pathways', which will inform the examination of the two case studies. Section 3 provides a synthetic description of the Canadian refugee system, with a focus on the overseas refugee admission process, and underlining its key features and briefly describing the main trends and dynamics of refugee protection in the country. Section 4 and 5 analyse the PSR program and EMPP respectively, paying attention to aspects of equitable access, non-discrimination and effective remedies in the selection and eligibility determination process; the analysis also explores the ways in which the two instruments conceptualize and address the issue of refugee vulnerability and access to decent work. Section 6 identifies a set of cross-cutting issues emerging from the analysis of the design and implementation of the two instruments. Based on evidence and feedback gathered during interviews with key stakeholders as well as beneficiaries of protection, this final section discusses a set of policy options that could contribute to addressing the identified challenges and improve alignment of Canada's complementary pathways of admission with international protection, human rights, and labour standards.

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[13] Interview audio and video was recorded with both the express written and verbal consent of interview participants. This recorded data was then anonymized to protect interviewee's anonymity and confidentiality. All audio, video and transcript data was stored on password protected networks accessible only to this report's authors. This system ensured that all data was safely processed in strict adherence to the ASILE Data Management Plan.

[14] ASILE Regional Workshop: Canada. 'Containing and Controlling Mobility in Canada and the EU: Safe Third Country Agreements and Complementary Pathways'. 7 September 2022. Centre for European Policy Studies (CEPS). https://www.youtube.com/watch?v=c7F0o6BUE64

2. The role of complementary pathways in refugee protection

The GCR includes a commitment to expand third country solutions, including by increasing the availability and predictability of complementary pathways for refugees. The latter should be made available on a more systematic, organised, sustainable and gender-responsive basis, and contain appropriate protection safeguards.[15]

While the GCR itself does not provide a definition of complementary pathways, UNHCR describes them as:

> safe and regulated avenues for persons in need of international protection that provide for a lawful stay in a third country where the international protection needs of the beneficiaries are met […] Pathways include existing admission avenues that refugees may be eligible to apply to, but which may require administrative and operational adjustments to facilitate refugee access. They must be carefully designed and implemented to ensure the protection and rights of refugees.[16]

UNHCR further underlines as 'essential' that admissions trough complementary pathways should be in addition to places made available through UNHCR-referred resettlement and should not in any case substitute states' obligations to provide international protection through access to asylum.[17]

A distinctive feature of 'complementary pathways' is that they may simultaneously pursue multiple objectives and goals, both humanitarian and non-humanitarian. They may combine a focus on protection needs with other considerations, such as those related to

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[15] Global Compact on Refugees, p. 94. This GCR objective intersects with the Global Compact on Migration's (GCM) objective of "enhancing the availability and flexibility of pathways for regular migration". In particular, Article 21(g) GCM includes a commitment to take actions to: "Develop or build on existing national and regional practices for admission and stay of appropriate duration based on compassionate, humanitarian or other considerations for migrants compelled to leave their countries of origin, due to sudden-onset natural disasters and other precarious situations, such as by providing humanitarian visas, private sponsorships, access to education for children, and temporary work permits, while adaptation in or return to their country of origin is not possible". See Global Compact for Safe, Orderly and Regular Migration, Resolution adopted by the General Assembly on 19 December 2018, A/RES/73/195.

[16] UNHCR, 'Complementary pathways for admission of refugees to third countries', https://www.unhcr.org/complementary-pathways.html (last accessed 11 October 2022)

[17] Ibid.

the labour market or educational skills of beneficiaries, or their family links in the country of destination.[18] The flexibility to pursue multiple policy objectives and adapt to the specificities of different legal frameworks presents both risks and opportunities in terms of the scope and quality of protection offered to beneficiaries.[19]

According to UNHCR, private sponsorship falls under the umbrella of complementary pathways as it provides individuals or organisations with the opportunity to directly engage with identifying, selecting, and supporting the entry and stay of people in need of international protection not previously referred by UNHCR based on standard resettlement criteria. UNHCR' guidance draws a distinction between private sponsorship and community sponsorship, as in the latter sponsor organisations or individuals support the reception and integration of refugees previously referred through UNHCR or arriving through another pathway.[20]

The 2019 UNHCR 'Three-Year Strategy on Resettlement and Complementary Pathways' calls for a sustainable and predictable growth in complementary pathways, with the goal

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[18] Following the most recent classification provided by UNHCR, complementary pathways may include one or a combination of the following: extended family reunification procedures (beyond nuclear family members); 'humanitarian' pathways (e.g., humanitarian admission programmes and humanitarian visas), labour mobility pathways, education pathways and private sponsorship pathways.

[19] T. Wood, 'The role of 'complementary pathways' in refugee protection', Kaldor Centre for International Refugee Law, 2020; N. Feith Tan, 'Community Sponsorship in Europe: Taking Stock, Policy Transfer and What the Future Might Hold', *Frontiers In Human Dynamics*, 3, 2021; L. Leboeuf,' Legal Pathways to Protection: Towards a Common and Comprehensive Approach?' EU Immigration and Asylum Law and Policy, 3 December 2020 Blog, https://eumigrationlawblog.eu/legal-pathways-to-protection-towards-a-common-and-comprehensive-approach/; S. Carrera and R. Cortinovis, 'The EU role in implementing the UN Global Compact on Refugees', CEPS Paper in Liberty and Security in Europe, 2019, https://www.ceps.eu/ceps-publications/eus-role-implementing-un-global-compact-refugees/

[20] See UNHCR, 'Private Sponsorship Pathways', https://www.unhcr.org/private-sponsorship-pathways.html#:~:text=Private%20sponsorship%20programmes%20provide%20individuals,displaced%20persons%20in%20their%20country. UNHCR refers to Canada's Private Sponsorship Programme (PSR) as a 'prime example of private sponsorship'. As discussed in further detail in section 3 below, it should be recalled that the PSR program precedes the 'language' of complementary pathways and, since its introduction in 1979, it has been conceived as a component of Canada's refugee resettlement system, alongside Canada's government-assisted refugee resettlement programme. See S. Labman, *Crossing Law's Border Canada's Refugee Resettlement Program*, UBC Press: Vancouver Toronto, 2019, Ch. 5.

of expanding access to those pathways to two million people by the end of 2028, a figure that doubles the target of one million set for resettlement places over the same period.[21]

Given that, unlike from resettlement, a global baseline data on complementary pathways is not available, the above targets were set using as an indicative reference the findings included in a 2018 OECD-UNHCR Study on 'Safe Pathways for Refugees', which was then updated in 2021. Data collected for that Study show that, between 2010 to 2017, a total of 566,900 first residence permits for family, work, or education-related reasons were issued by OECD countries to nationals of five main refugee producing countries (Afghanistan, Eritrea, Iraq, Somalia, and Syria). A set of limitations were however identified in the methodological approach and data collection process followed in the OECD-UNHCR Study, which implies that the figures therein included should be considered as indicative in nature.[22]

The 'Next phase of the Three-Year Strategy', published by UNHCR in June 2022, acknowledges that, due to gaps in reliable and comprehensive data, 'implementing and measuring progress toward the complementary pathways target remains difficult and will be dependent on the continued development of a more robust reporting process'.[23]

The remainder of this section discusses some of the main normative and policy issues raised by complementary pathways, as identified in the academic literature on these instruments. This short review will focus on aspects related the three dimensions covered in the Report: selection process and eligibility criteria, refugee vulnerability, and access to decent work.

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[21] UNHCR, 'The Three-Year Strategy (2019-2021) on Resettlement and Complementary Pathways', June 2019, p. 6. https://www.unhcr.org/media/38250

[22] See 'Safe Pathways for refugees. OECD-UNHCR Study in third country solutions for refugees: family reunification, study programmes and labour mobility', 2018, https://www.oecd.org/migration/UNHCR-OECD-safe-pathways-for-refugees.pdf; 'Safe Pathways For Refugees II'. OECD-UNHCR Study on Third-country Solutions for Refugees: Admissions for family reunification, education, and employment purposes between 2010 and 2019', https://www.oecd.org/migration/mig/Safe-Pathways-for-Refugees_2021.pdf. On the methodological limitations inherent to the OECD-UNHCR study see also N. Hashimoto 'Are New Pathways of Admitting Refugees Truly 'Humanitarian' and 'Complementary'?', Journal of Human Security Studies, 10(2), 2021.

[23] UNHCR, Third Country Solutions for Refugees: Roadmap 2030, June 2022, https://globalcompactrefugees.org/sites/default/files/2022-08/Third%20Country%20Solutions%20for%20Refugees%20-%20Roadmap%202030.pdf

This discussion lays the ground for the following analysis of the two cases studies under consideration in this Report: Canada's PSR program and the EMPP.

Selection process and eligibility criteria

Instruments falling under the umbrella of 'complementary pathways' are usually associated with a high level of discretion for state authorities, and in some cases private actors, to select candidates in line with their own criteria and priorities. This implies that governmental actors other than asylum authorities, for example visa officers responsible for assessing eligibility at overseas offices, may end up conducting *quasi* refugee status determination procedures, raising concerns about the quality of decision making and the level of procedural fairness applied throughout these procedures.[24]

To mitigate the above-mentioned risks, scholars have underlined the importance of applying transparent and principled eligibility criteria to ensure that selection procedures align with states' international commitments in the field of refugee protection.[25] The role played by private actors – including employers, educational institutions, churches, and community groups – at the selection stage deserves specific attention. Wood stresses in this regard the importance of establishing adequate accountability mechanisms to avoid selection based on discriminatory grounds – e.g., ethnic or religious belonging of applicants.[26]

Vulnerability

While resettlement programs claim to target 'particularly vulnerable' refugees',[27] instruments categorised as complementary pathways diverge widely as to the role

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24 Wood, op. cit., p. 26.

25 Ibid.

26 Ibid. See also N. Feith Tan, 'Community Sponsorship of Refugees and Local Governance', in M. Baumgärtel & S. Miellet (eds.) *Theorizing Local Migration Law and Governance*, Cambridge: Cambridge University Press, 2022, pp. 252 – 271.

27 For a review of exiting scholarly literature on the notion of 'vulnerability' and its role in the context of resettlement practices see Costello et al., 'Refugee recognition and resettlement', ASILE Working Paper. 2022. See also N. Welfens and Y. Bekyol, 'The Politics of Vulnerability in Refugee Admissions Under the EU-Turkey Statement', *Frontiers in Political Science*, Volume 3, April 2021, pp. 1- 7.

assigned to vulnerability criteria at the selection stage. Some instruments, such as humanitarian admission programmes, give priority to 'vulnerable' individuals, while other instruments, e.g., community sponsorship or pathways based on education and labour channels, usually do not envisage a specific focus on 'vulnerability'.[28]

Normative considerations concerning the role that complementary pathways should play in facilitating the admission of ' the most vulnerable refugees' are strictly linked with the widely held assumption that opportunities available through complementary pathways should be considered as 'additional' to those provided under state-led resettlement programs.[29] Respect of the principle of additionality is key in ensuring that places provided under complementary pathways do not substitute states' commitments to contribute to the already scarce pool of resettlement places available on a global scale. Existing research underlines how policies and practices in several states are in fact 'blurring' the distinction between resettlement pledges and complementary pathways, making it difficult to ascertain compliance with the principle of additionality in practice.[30]

The 'flexible' and discretionary nature of 'complementary pathways' may also contribute to co-creating what scholars have referred to as 'structural vulnerability'.[31] In particular, a

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[28] Hashimoto, 'Are New Pathways of Admitting Refugees Truly 'Humanitarian' and 'Complementary'?', p. 21.

[29] See UNHCR, 'Key considerations', p. 5.

[30] Wood, op. cit., p. 25; Feith Tan, 'Community Sponsorship in Europe', p. 5.

[31] Traditional understandings of 'vulnerability' in relation to human rights protection rely on the idea that certain individuals or subsets of the broader population are 'vulnerable' due to their unique or distinguishing characteristics, for example due to their age, gender or other diversity factors. Yet, labelling specific populations as 'vulnerable' can also lead to stigmatization of the populations under consideration, fixing their position in the eyes of the public and the state into one of perpetual victimhood. Contrasting with an understanding of vulnerability as attached to individuals or groups, the notion of 'structural vulnerability' understands the drivers of vulnerability as 'socio-contextual', that is as emerging from societal processes rather than individual characteristics. The proponents of structural vulnerability focus on the social conditions that exacerbate individuals or group vulnerability, holding the view that governments must reflexively analyse the ways in which vulnerability is impacted by migration laws and practices. On the concept of vulnerability see, among others: H. E. Morawa, 'Vulnerability as a Concept of International Human Rights Law' (2003). *Journal of International Relations and Development*, 6(2); Fineman, M. A. 'The Vulnerable Subject: Anchoring Equality in the Human Condition' (2008). *Yale Journal of Law & Feminism*, 20(1), pp. 1-23; Butler, Judith, *Frames of War: When is Life Grievable? (2009)*. Verso, London; Peroni and A. Timmer, 'Vulnerable groups: The promise of an emerging concept in European Human Rights Convention law' (2013). *International Journal of*

lack of procedural fairness at the selection stage may substantially raise barriers to access, particularly when targeted mechanisms are not in place to anticipate the specific constraints faced by vulnerable or disadvantaged individuals.[32] Furthermore, the discretionary nature of complementary pathways implies that often effective remedies for rejected applicants are not available, precluding individuals from contesting decisions they believe were incorrectly adjudicated.

Once refugees are admitted to their country of destination, they may also face situations of vulnerability which, besides being linked to their past experience of displacement, risk being 'co-created' by the of legal and policy environment they experience upon arrival. Insufficient reception conditions and support services, as well as the absence of procedures in place for monitoring and identifying factors of risk, may put refugees in a precarious legal or social condition and increase their vulnerability.

Right to work

A key objective of complementary pathways is to widen the scope of durable solutions for refugees.[33] Some instruments – particularly those relying on existing labour migration opportunities – aim at fostering refugee agency and autonomy, particularly when it comes to independently decide where to work and how to support themselves.

The availability of a sustainable path towards 'self-reliance' by means of access to decent work[34] depends not only on the legal design of complementary pathways but broadly on the specific legal and socio-economic context in the country of destination. Some experts have warned against the risk that 'pathways' providing access to existing regular migration

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Constitutional Law, 11(4); Gilson, E. C., 2014. *The Ethics of Vulnerability: A Feminist Analysis of Social Life and Practice*, London and New York: Routledge.

32 T. C. Farrow, 'What is Access to Justice?' *Osgoode Hall Law School of York University*, 51(3), 2014, pp. 957 – 987.

33 UNHCR, 'Key considerations', p. 7.

34 Costello and O'Cinnéide define decent work as 'composite right' to reflect its "diverse and distinct aspects, and their interactions with a range of binding international legal sources" as well as "its concerns with the freedom, effective accessibility and quality of work". See C. Costello and C. O'Cinnéide, 'The Right to Work of Asylum Seekers and Refugees', ASILE Working Paper, p. 5, https://www.asileproject.eu/wp-content/uploads/2021/07/CostelloOCinneide_RightToWorkASILE_10May2021.pdf

channels may not afford adequate rights and create opportunities for exploitation. Instruments based on labour migration channels may be designed in ways that restrict the rights of individuals to work outside a specific job sector or with a different employer or limit their access to social security for them and their families. Instruments designed in such as a way risk exacerbating rather than reducing protection risks – for example, by exposing individuals to exploitative labour migration programs.[35]

To mitigate those risks, the UNHCR recommends that refugees admitted through complementary pathways have access to institutional mechanisms and procedures that provide access to justice, fair employment practices, freedom from discrimination and exploitation and from other risks associated with third-country mobility, irrespective of their legal status.[36]

In addition, while states may grant refugees a formal right to work under national law, access to work in practice often remains difficult or impossible.[37] The adoption of strategies to support refugee inclusion in the labour market, such as access to education opportunities, life-long learning, recognition and accreditation of acquired skills and competencies have been identified as key to ensure the right to decent work is enjoyed by refugees in practice.[38]

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35 M. Bradley, 'Resolving Refugee Situations: Seeking Solutions Worthy of the Name', World Refugee Council Research Paper No. 9 – March 2019, p. 7; Z. Vankova, 'Refugees as Migrant Workers after the Global Compacts? Can Labour Migration Serve as a Complementary Pathway for People in Need of Protection into Sweden and Germany?', Laws 11(6), 2022, pp. 1-25.

36 UNHCR, 'Key considerations', p. 12. See also ILO, 'Guiding principles Access of refugees and other forcibly displaced persons to the labour market', 2016, https://www.ilo.org/global/topics/labour-migration/publications/WCMS_536440/lang--en/index.htm. The ILO 'Guiding Principles' states that national policies and action plans should be formulated in conformity with international labour standards, decent work principles, humanitarian principles, obligations under international law, including human rights law and refugee law, as applicable and in consultation with labour ministries as well as representative employers' and workers' organisations.

37 C. Costello and C. O'Cinnéide, 'The Right to Work of Asylum Seekers and Refugees', p. 8.

38 ILO, 'Guiding Principles', p. 10.

3. Specificities of the Canadian refugee system

Canada's refugee system is regulated by the Immigration and Refugee Protection Act (IRPA) and the Immigration and Refugee Protection Regulations (IRPR).[39] The system consists of two main components: the in-Canada Asylum Program for persons who make their claims from inside the country, and the Refugee and Humanitarian Resettlement Program for refugees seeking protection from outside Canada.[40]

In turn, the Canadian Refugee and Humanitarian Resettlement Program comprises three separate channels:

1) the Government-Assisted resettlement (GAR) program, funded by the federal Government's Ministry of Immigration, Refugees and Citizenship Canada (IRCC);
2) the Privately sponsored resettlement (PSR) program, funded by Canadian citizens, permanent residents, and civil society organisations;
3) The Blended Visa Office Referral (BVOR) program, under which resettlement costs are equally shared between the government and private sponsors.

The IRPA delineates inadmissibility criteria for resettlement applicants based on security grounds, violation of human or international rights and serious criminality grounds.[41] International human rights bodies as well as civil society organisations have expressed long-standing concerns about the broad scope of inadmissibility criteria laid down in Canadian law, arguing they exceed the scope of exclusion grounds under the 1951 Refugee Convention and other international human rights instruments.[42]

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[39] Immigration and Refugee Protection Act, S.C. 2001, c. 27, Current to October 5, 2020. Last amended on June 21, 2019, https://laws.justice.gc.ca/eng/acts/i-2.5/; Immigration and Refugee Protection Regulations, (SOR/2002-227), https://laws-lois.justice.gc.ca/eng/regulations/sor-2002-227/

[40] See Government of Canada, How Canada's refugee system works, https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/canada-role.html.

[41] 'Immigration and Refugee Protection Act', Art. 34-37.

[42] Interview CAN8; See also R. Cortinovis, 'Country Note Canada', ASILE project Global Portal, p.4. https://www.asileproject.eu/wp-content/uploads/2021/05/Country-Note_Canada.pdf

The IRPR further outlines legal eligibility criteria for resettlement. Eligible individuals must fall under either of the following classes: a) the 'Convention Refugees Abroad Class', which covers individuals outside their country of origin and unable to return to their home country due to fear of persecution because of race, religion, political instability, nationality, or sexual orientation; b) the 'Country of Asylum Class', which extends to individuals outside their countries of nationality and habitual residence who have been, and continue to be, seriously and personally affected by civil war, armed conflict, or massive violations of human rights in those countries.[43]

The government of Canada establishes annual limits on the maximum number of refugees who can be resettled under each of the three streams of its Refugee and Humanitarian Resettlement Program. The majority (54.7%) of all resettled refugees in the period January 2015 – April 2020 entered Canada through the PSR program. Of the remaining share (45,3%), seven times more individuals entered through the GAR program than through the much smaller BVOR program.[44] In 2018, Canada was country resettling the highest number of refugees globally, when the total number of admissions the three streams its resettlement system is considered.[45]

Canada has remained the country resettling the highest number of refugees worldwide even in the challenging context determined by the Covid-19 pandemic.[46] In 2021, Canada was the largest receiver of resettled refugees, welcoming 20,400 individuals under the three components of its resettlement program, albeit previously set targets for that year

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43 Immigration and Refugee Protection Act, Art. 96; Immigration and Refugee Protection Regulations, Art. 147. The Country of Asylum Class, unlike the Convention Refugee definition, does not require a person to be specifically targeted, as the harm feared may be the result of indiscriminate acts.

44 A. Macklin and J. Blum, ASILE 'Country Fiche: CANADA, January 2021, p. 21.

45 United Nations High Commissioner for Refugees (2019), 'Global Trends: Forced Displacement in 2018'. https://www.unhcr.org/5d08d7ee7.pdf; Macklin and Blum, 'Country Fiche Canada', p. 21.

46 Hon. Marco Mendicino, 'Speaking Notes for the Honourable Marco Mendicino, Minister of Immigration, Refugees and Citizenship: Announcement related to new initiatives to help Canada assist even more refugees'. Delivered 18.06.2021. https://www.canada.ca/en/immigration-refugees-citizenship/news/2021/07/speaking-notes-for-the-honourable-marco-mendicino-minister-of-immigration-refugees-and-citizenship-announcement-related-to-new-initiatives-to-help-.html.

had to be substantially decreased.[47] The government has set even more ambitious targets for the period 2023-2025, with a goal of 50,000 admissions for 2023 alone.[48]

While Canada had in place a structured legal framework regulating resettlement since 1976, over the following years Canadian authorities retained a significant degree of flexibility when responding to subsequent large-scale displacement situations. A major example is Canada's reaction to the Syrian refugee crisis. In November 2015, Canada launched an initiative known as 'Operation Syrian Refugees', which led to the resettlement of more than 25,000 refugees over a span of only 100 days. By January 2017, around 40,000 Syrian refugees had been resettled across Canada: 21,745 Government-Assisted refugees, 18,930 Privately sponsored refugees and 3,945 Blended Visa Office-referred refugees.

The ambitious admission targets of Operation Syrian Refugees could be reached, among other things, by adopting several temporary derogations from ordinary resettlement rules. All Syrian refugees were considered as *prima facie* refugees, a choice which allowed to substantially reduce processing times.[49] Additional exceptions included allowing private sponsorship organisations to exceed their annual quotas and granting sponsors groups the possibility to submit applications for Syrian (and Iraqi) refugees without providing proof of UNHCR or state refugee recognition.[50]

Another example is offered by the Canadian response to the developing humanitarian situation in Afghanistan in the summer of 2021. The government announced a plan to

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[47] UNHCR, Global Trends. Forced Displacement in 2021, p. 39, https://www.unhcr.org/publications/brochures/62a9d1494/global-trends-report-2021.html; R. Boudjikanian, 'Canada struggling to meet refugee target number for 2021', CBC News, 23 November 2021, https://www.cbc.ca/news/immigration-refugees-canada-1.6258067

[48] Government of Canada, 'Notice – Supplementary Information for the 2023-2025 Immigration Levels Plan', https://www.canada.ca/en/immigration-refugees-citizenship/news/notices/supplementary-immigration-levels-2023-2025.html. See also Cameron and S. Labman, 'How Canada plans to break records with its new refugee targets', The Conversation, 15 November 2022, https://theconversation.com/how-canada-plans-to-break-records-with-its-new-refugee-targets-193880

[49] Government of Canada, Syrian Refugee Resettlement Initiative – Looking to the Future, https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/welcome-syrian-refugees/looking-future.html (last accessed 11 October 2022).

[50] See Section 4.1. below.

resettle 40,000 Afghan refugees to be achieved by means of two separate instruments. [51] The first instrument targets individuals who worked in support of Canadian forces in Afghanistan and who are still or recently left the country, which is to be covered entirely through the government assisted program. The second one, called 'Humanitarian program', targets vulnerable groups – women leaders, human rights advocates, persecuted religious or ethnic minorities, LGBTI individuals, and journalists – outside of Canada, and falls under both the government-assisted refugee and privately sponsored refugee streams.[52]

By August 2021, 17,590 Afghan refugees had arrived in Canada, 10,250 under the Humanitarian program. Canadian authorities have received criticisms for delays in processing applications and for not applying to the Afghanistan situation the same range of exceptions (e.g. recognising all Afghan refugees on a *prima facie* basis) that had been previously applied to the Syrian situation.[53] Similarly, Canada's response to the mass displacement of Ukrainians[54] since early 2022 – which centred around an emergency travel authorisation scheme and temporary protection for Ukrainian nationals – has led experts to denounce disparities in the treatment of different refugee populations and the lack of an equitable and uniform approach to addressing displacement situations.[55]

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[51] R. Gladstone & I. Austen, 'Canada Doubles its Afghan Refugee Resettlement Target to 40,000 people', *The New York Times*, 27 September 2021, https://www.nytimes.com/2021/09/27/world/americas/canada-afghanistan-refugees.html

[52] See Government of Canada, Canada's response to the situation in Afghanistan, https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/afghanistan.html (last accessed 11 October 2022).

[53] See Bryony Lau 'Canada promised to take in 20,000-40,000 Afghan refugees. Where are they?', *National Post*, 25 October 2021, https://nationalpost.com/news/canada/canada-promised-to-take-in-20000-40000-afghan-refugees-where-are-they; Naomi Alboim & Karen Cohl, 'A post-election to-do list for the Afghan crisis, *Policy Options*', October 7, 2021, https://policyoptions.irpp.org/magazines/october-2021/a-post-election-to-do-list-for-the-afghan-crisis/

[54] Government of Canada, Immigration measures and support for Ukrainians and their families, https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/ukraine-measures.html

[55] Adèle Garnier, Jamie Chai Yun Liew, Shauna Labman, 'Is Canada's welcome to fleeing Ukrainians a new era of refugee policy?', *The Conversation*, March 9, 2022, https://theconversation.com/is-canadas-welcome-to-fleeing-ukrainians-a-new-era-of-refugee-policy-178501; Naomi Alboim and Karen Cohl, 'Canada needs a unified approach for people fleeing Ukraine and Afghanistan', *The Globe and Mail*, April

Traditionally, a key aspect that has contributed to the creation of a favourable environment for the proliferation of Canada's resettlement program is the self-perceived identify of Canada as a 'country of immigration'.[56] This image, which is shared by a substantial part of the Canadian public, has resulted over the years in a durable interest by Canadian civil society organizations and private citizens in sponsoring refugees.[57]

Canada's relative geographic insulation has also exerted a profound impact on its refugee and asylum policies. Canada is surrounded by 'cold seas' and shares its only land border with the United States.[58] The two countries signed a Safe Third Country Agreement (STCA), which entered into force in 2004, barring refugee claimants entering through the United States (subject to narrow exceptions for families and unaccompanied minors) from seeking protection at official border crossing points along the Canada-US border.[59]

As underlined by Macklin and Blum, the STCA is only the most visible deterrence measure among those adopted by Canada to prevent spontaneous refugee claimants from entering into its territory. Canada maintains a strict visa policy and relies on 'safe country rules' to deny access to full refugee determination to asylum seekers who had previously applied for asylum in the United Kingdom, Australia and New Zealand.[60] The effective implementation of restrictive policies limiting spontaneous asylum applications in the country, coupled with its relative geographical isolation, have contributed to making refugee resettlement 'more palatable' for policymakers.[61] It should be noted in this regard how the generally positive attitude of Canadian public opinion towards refugees arriving

4, 2022, https://www.theglobeandmail.com/opinion/article-canada-needs-a-unified-approach-for-people-fleeing-ukraine-and/

56 Interview CAN5 (Quoted); Interview CAN7.

57 Interview CAN7.

58 Interview CAN23.

59 Macklin and Blum, ASILE Country Fiche, p. 4. See also R. Cortinovis, ASILE Country Note Canada, section 3.

60 Macklin and Blum, p. 18.

61 J. Hyndman, W. Payne, S. Jimenez, 'The State of Private Refugee Sponsorship in Canada: Trends, Issues, and Impacts, RRN/CRS Policy Brief Submitted to the Government of Canada'. January 20, 2017, p. 11.

on the territory through regulated means contrasts with strong public reactions and policy responses towards asylum seekers arriving spontaneously in Canada by sea or land.[62]

The tension between Canadian's restrictive approach towards spontaneous arrivals and the role of the country as a recognized 'champion' of refugee resettlement and complementary pathways is aptly described by Macklin and Blum in the following terms:

> Canada's low visibility, extraterritorial bordering apparatus is effective and attracts little public scrutiny and opprobrium. It enables Canada to present itself as the benign face of sovereignty: a human rights compliant state that chooses to resettle a handful of refugees while also avoiding receiving more than a trickle of the world's asylum seekers [...] But it is critical to recognize how the combination of relative geographic insulation and extraterritorial bordering operate in tandem to overwhelmingly keep refugees out of earshot and out of sight.[63]

Along the same lines, Labman and Liew have pointed to the Canadian government's rhetorical attempt to frame resettlement as the more valid form of protection, through the suggestion that resettled refugees are obeying Canadian law by entering the country in a legal way, while asylum seekers arriving spontaneously break the law by entering irregularly.[64] The official narrative supported by the government has in turn reinforced in the Canadian public an approach to refugee issues based on what the authors refers to as 'moral licensing', whereby restricting access to asylum for refugees applying within-country is perceived as legitimate on the assumption that Canada 'has already done its part' by resettling more refugees that other countries.[65]

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[62] In 2009 and 2010, when two boats carrying a total of 568 refugee claimants from Sri Lanka arrived on the shores of Western Canada, Canadian politicians labeled these individuals as 'suspected human smugglers and terrorists' and new legislation was introduced to allow for their protracted detention and denial of rights, despite concerned arrivals only constituting 1% of refugee claim during that period. Akin to the boat arrivals, unauthorised border crossings at Roxham Road (located on the Canada-U.S. border) attracted high visibility and media attention and elicited a negative public response. Interview CAN3; see also Canadian Council for Refugees, 'Sun Sea: Five year later', 2015 https://ccrweb.ca/sites/ccrweb.ca/files/sun-sea-five-years-later.pdf

[63] Macklin and Blum, p. 5.

[64] Shauna Labman and Jamie Chai Yun Liew, 'Law and moral licensing in Canada: the making of illegality and illegitimacy along the border', International Journal of Migration and Border Studies, 5(3), 2019.

[65] Ibid.

This instrumental construction of the law applicable at the border obscures the fact that the principle of *non-refoulement* under international refugee and human rights law (incorporated into Canada's legal framework) prohibit the return of refugees to a country where they would face torture, cruel or inhumane treatment and other serious violations of fundamental rights. The 1951 Refugee Convention further establishes in Art. 31 that no criminal or administrative sanctions shall be imposed on refugee claimants due to their illegal entry into a country.

Furthermore, while Canada's resettlement framework is surely proving a valuable contribution to international efforts in support of refugees, its overall impact on global resettlement needs indicated by UNHCR (1.4 million in 2022) remains limited.[66] Furthermore, as described in detail in the next section, the private sponsorship of refugee program – which currently represents the largest component of Canada's resettlement system in numerical terms – does not specifically target individuals prioritized by UNHCR in its assessment of resettlement needs.

[66] UNHCR, Projected Global Resettlement Needs 2022, https://reliefweb.int/report/world/unhcr-projected-global-resettlement-needs-2022?gclid=Cj0KCQjw1vSZBhDuARIsAKZlijQe30oDkktopvQ-z04wY9D67Jr86aEok-f8ApUjfYLfMd8iR99-vrMaAqxAEALw_wcB

4. Private Sponsorship of Refugees (PSR) Program

Private groups of Canadian citizens have sponsored refugees for more than forty years, leading to the resettlement of around 327,000 refugees over that period.[67] Two major movements of refugees have defined private sponsorship in Canada: the arrival of Vietnamese, Cambodian and Laotian refugees in the late 1970s and early 1980s, and the more recent arrival of Syrian refugees from 2015 onwards.[68] Statistics show how annual resettlement numbers to Canada have fluctuated significantly over time, with the proportion of privately sponsored refugees matching or exceeding government assisted refugees during 'peak' periods.[69]

The legal architecture of private sponsorship first laid down in the 1976 Immigration Act (IA) has remained relatively consistent until today. The sponsorship model permits sponsors to either 'name' an individual they wish to sponsor (sponsor-referred cases) or accept a referral of a refugee from a visa officer (visa office-referred cases). Sponsored refugees receive financial and social support for one year by their sponsors and have access to a range of government-funded settlement services akin to those available for other categories of permanent residents.[70]

Individuals and groups can sponsor refugees for resettlement to Canada by forming one of three types of eligible private sponsor groups: Sponsorship Agreement Holders (SAHs), 'Groups of Five', and Community Sponsors. Most refugees are sponsored by SAHs: these are usually faith-based, cultural or humanitarian organisations that have entered a sponsorship agreement with the Government of Canada allowing them to submit a pre-established number of sponsorship applications each year. Large SAHs usually sponsor

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67 Bond defines community sponsorship as: "programs that empower groups of ordinary individuals—as opposed to governments or professionalised agencies—to lead in welcoming, supporting, and integrating refugees. See J. Bond, 'The power of politics: exploring the true potential of community sponsorship programmes', in C. Dauvergne (ed.) *Research Handbook on the Law and Politics of Migration,* Chelthenam: Edward Elgar, pp. 155-170.

68 J. Hyndman, W. Payne, S. Jimenez, 'The State of Refugee Sponsorship in Canada', p. 4.

69 A. Macklin and J. Blum, 'ASILE Country Fiche Canada', p. 21. Between January 2015 and April 2020, out of 154,510 refugees resettled to Canada, 84,520 persons came through private sponsorship, 61,320 were resettled as government assisted refugees, and 8,670 through the blended public-private program.

70 Macklin and Blum, 'ASILE Country Fiche Canada', p. 20.

refugees in collaboration with subordinate groups, referred to as Constituent Groups (CGs), or in partnership with individuals, known as 'co-sponsors'.[71] Sponsorship may be also undertaken by a so-called 'Group of Five' comprising five Canadian citizens or permanent residents who come together to sponsor a refugee.[72] Finally, a Community Sponsor is an organization, corporation or association that must demonstrate the financial and settlement capacity to fulfil the sponsorship undertaking and which must be located in the community where the refugee is expected to settle.[73]

In 2013, the government of Canada introduced a third resettlement category, besides the GAR and PSR programs, known as Blended Visa Office Referral (BVOR) program. Under the BVOR program, private sponsors are 'matched' with UNHCR-referred refugees from targeted regions or groups identified by the Canadian government.[74] The sponsors and the government equally share the costs of financial support for one year (six months each).[75] While the BVOR program offer sponsors the benefits of less financial costs and faster admission procedures, it withdraws the principle of 'naming', one of the key features of the PSR program. The BVOR stated intention is to help bolster the Canadian government's fulfilment of its international protection commitments. The program, however, has received criticism for 'blurring' the principle of additionality, with some scholars criticizing

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71 GRSI, Guidebook, 2022, 'What are the Types of Eligible Sponsor Groups (Individuals, Organizations, Community Groups, Businesses, etc.)?', p. 111 https://refugeesponsorship.org/resource-directory/grsi-guidebook/; Refugee Sponsorship Training Program, 'Sponsorship Agreement Holders', https://www.rstp.ca/en/refugee-sponsorship/sponsorship-agreement-holders/

72 Government of Canada, 'Groups of five: About the process, https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/help-outside-canada/private-sponsorship-program/groups-five.html (last accessed 29 January 2023).

73 Government of Canada, 'Community sponsors: About the process', https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/help-outside-canada/private-sponsorship-program/community-sponsors.html (last accessed 29 January 2023).

74 UNHCR resettlement submissions fall into one of the following seven categories: refugees with legal and physical protection needs; survivors of torture and violence; refugees with medical needs; women and girls at risk; refugees in need of family reunification; children and adolescent at risk; and refugees who lack a foreseeable alternative durable solution. See 'UNHCR Resettlement Handbook', Ch. 6.

75 Government of Canada, Blended Visa Office-Referred (BVOR) Program, https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/help-outside-canada/private-sponsorship-program/blended-visa-office-program.html (last accessed 11 October 2022).

it as an unstated attempt by the government to 'offload' its international resettlement responsibilities to the private sector.[76]

The Canadian sponsorship ecosystem has developed significantly over time, currently counting on more than 100 entities registered as SAHs,[77] a dedicated SAH Association,[78] a well-established sponsor training body,[79] and hundreds of thousands of repeat sponsors. The expansion and consolidation of the PSR program at home has gone hand in hand with initiatives aimed at exporting the Canadian experience as a 'model' of refugee protection internationally. In December 2016, the Government of Canada, UNHCR, Open Society Foundations, Giustra Foundation, and University of Ottawa jointly launched the Global Refugee Sponsorship Initiative (GRSI), a partnership devoted to supporting the development and growth of community sponsorship schemes around the world based on the experience, lessons learned, and results achieved by the Canadian program.[80]

The interest shown in the Canadian private sponsorship program by countries around the world stem from a number of factors. Existing evidence lends support to the conclusion that privately sponsored refugees display higher levels of socio-economic inclusion compared to other categories of resettled refugees, especially in the first years after arrival.[81] Positive integration outcomes of sponsored refugees are associated with the personal attention, care, and social networks provided by sponsors.[82] Community

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76 Interview CAN16, CAN23. S. Labman and M. Pearlman, 'Blending, Bargaining, and Burden-Sharing: Canada's Resettlement Programs', *Journal of International Migration and Integration*, 19, 2018, pp. 439–449; J. Hyndman, W. Payne, & S. Jimenez, 'The State of Private Refugee Sponsorship in Canada: Trends, Issues, and Impacts', p. 5.

77 Government of Canada, Private Sponsorship of Refugees Program – Sponsorship Agreement Holders, https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/help-outside-canada/private-sponsorship-program/agreement-holders/holders-list.html (last accessed 11 October 2022).

78 See Canadian Refugee Sponsorship Agreement Holders Association, https://www.sahassociation.com/about/

79 See Refugee Sponsorship Training Program, https://www.rstp.ca/en/about-the-rstp/

80 See the GRSI website at: https://refugeesponsorship.org/

81 Mackling and Blum, 'ASILE Country Note, Canada', p. 23.

82 J. Bond, 'The power of politics', p. 159.

sponsorships are also praised for bringing several benefits to local communities, increasing their resourcefulness and fostering a more positive approach towards refugees and migrants.[83]

In parallel, since its inception in the 1970s, several challenges have marked the implementation of the PSR program. Sponsor organisations have consistently lamented inefficiencies in the management of the program, including lengthy processing times, inconsistent decision-making by overseas visa officers, high refusal rates and lack of effective remedies in case of a negative decision.[84] The following section delves in more detail into a set of normative and policy issues associated with the design of the PSR program , notably concerning how to ensure equity in access, how to guarantee procedural fairness in the context of selection and admission procedures, as well as how to provide an adequate and uniform level of support to sponsored refugees after arrival.[85]

4.1. Selection process and eligibility criteria

Differently from the Government-Assisted resettlement (GAR) program, whereby refugees are selected by a recognised organisation, usually UNHCR, the PSR program allows sponsor groups to 'name' a specific refugee they wish to bring to Canada. if the application is found to meet the requirements for sponsorship, including adequate financial capacity on the part of the sponsor, the file is then sent to the relevant overseas office for processing. Visa officers conduct an interview with the refugee and decide on his/her eligibility for permanent residence status in Canada.

The possibility to 'name' refugees is a key feature of the PSR model, and one that has contributed to ensure widespread participation of Canadian civil society in the program

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83 Macklin et al. argue that refugee sponsorship promotes active citizenship for both sponsors and refugees, since it requires people "to commit time, energy and resources to a cooperative undertaking of public and civic value: the enrolment of newcomers into substantive, identarian and, ultimately, legal citizenship". See A. Macklin, et al. 'A preliminary investigation into private refugee sponsors', *Canadian Ethnic Studies*, 50(2), 2018, pp. 35–57.

84 B. Treviranus and M. Casasola, 'Canada's Private Sponsorship of Refugee Program', *Journal of International Migration and Integration,* 4(2), p. 187.

85 Macklin and Blum, 'ASILE Country Fiche Canada', p. 21.

over time.[86] One interviewee argued in this regard that "naming has made the Canadian program what it is".[87] Another interviewee added that the system of private sponsorship is essentially about harnessing the energy existing within the Canadian society, "creating forums by which people can mobilise to assist refugees around the world, and giving them a model to achieve that aim".[88]

However, scholarly research has also underlined a set of potential negative aspects associated with the principle of 'naming'. A major critique is that 'naming' turns the focus away from resettling the most vulnerable refugees, essentially transforming the PSR program into an avenue for reuniting with extended family members, or individuals sharing the same ethnic or cultural background.[89] This observation is particularly relevant considering that, from 2017 to 2019, refugees admitted yearly through the PSR program have vastly exceeded those admitted through the GAR program.[90] Furthermore, 'naming' raises a fairness issue to the extent that it makes access to private sponsorship dependent on individuals' personal connections, and on the latter availability to mobilise the required financial resources.[91]

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86 Interview CAN5, CAN23.

87 Interview CAN15.

88 Interview CAN4.

89 Interview CAN16. According to Lehr and Dick: "As Canada's example shows, named refugees are predominantly those related to persons already established in Canada". They add that: "Private sponsorship program expands refugee family reunion, making it possible for relatives beyond the nuclear family to be resettled". See S. Lehr and B. Dyck, '"Naming" Refugees in the Canadian Private Sponsorship of Refugees Program: Diverse Intentions and Consequences', In S. Labman and G. Cameron (eds.) *Strangers to Neighbours Refugee Sponsorship in Context*, Montreal & Kingston: McGill-Queen's University Press, pp. 42-60.

90 See Macklin and Blum, 'ASILE Country Fiche Canada', p. 21. Admissions levels in 2020 and 2021 were substantially impacted by travel restrictions introduced as consequence of the Covid-19 pandemic. See The Honourable Sean Fraser P.C., M.P. Minister of Immigration, Refugees and Citizenship, '2021 Annual Report to Parliament on Immigration', p. 24, https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/annual-report-parliament-immigration-2021.html [last accessed 29 January 2023].

91 S. Lehr and B. Dyck, '"Naming" Refugees in the Canadian Private Sponsorship of Refugees Program: Diverse Intentions and Consequences', pp. 42-60.

Beyond the inadmissibility criteria foreseen in the IRPA and described in Section 2, a set of additional requirements limit the discretion of private groups to sponsor refugees for resettlement. In 2012, the Canadian government capped the total number of applications that each SAH is allowed to submit in a given year. SAHs raised strong criticisms against that change, underlying how the envisaged cap would substantially limit their capacity to meet the demand for sponsorship coming from the Canadian society.[92]

Eligibility requirements for the PSR program also vary depending on the typology of sponsor group which is submitting an application. SAHs can submit sponsorship applications for anyone they believe would qualify under Canadian law (e.g., individuals falling with the 'Convention Refugees Abroad Class' or the 'Country of asylum Class'). In contrast, since 2012, 'Groups of Fives' and 'Community Sponsors' need to provide proof that an applicant has been formally recognised as refugee by UNHCR or a foreign state for the application to be eligible.[93]

Refugee advocates and Canadian sponsorship organisations have argued that a requirement to provide proof of refugee status by UNHCR or the country of asylum disadvantages some groups of refugees over others. The pointed out that many displaced people around the world do not have access to RSD procedures as, for example, in the case of many Syrians residing in Türkiye, Iraq or Jordan.[94] Refugees may also be provided with different documents attesting refugee recognition depending on the countries in which they reside, which may not be equally recognised by Canadian authorities as a proof of refugee status.[95]

From 2015 to 2017, the Canadian government temporarily waived the RSD requirement for Groups of Five and Community Sponsors willing to sponsor Syrian and Iraqi refugees, in an

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92 Labman, *Crossing Law's Border*, p. 108.

93 Interview CAN15. See also I. Van Haren, 'Canada's Private Sponsorship Model Represents a Complementary Pathway for Refugee Resettlement', Migration Policy Institute, 2021, https://www.migrationpolicy.org/article/canada-private-sponsorship-model-refugee-resettlement

94 See P. Thériault, 'Settling the Law: An Empirical Assessment of Decision-Making and Judicial Review in Canada's Refugee Resettlement System', PHD Dissertation Graduate Programme in Law Osgoode Hall Law School, 2021, p. 133.

95 Interview CAN15, CAN31.

attempt to meet the ambitious government resettlement targets for those nationalities.[96] The Canadian Council of Refugees, as well as several organisations involved in sponsorships, asked the government to consider removing the RSD requirement permanently, or at least in the context of addressing large-scale displacement situations, such as in the case of refugee movements from Afghanistan in the aftermath of the Taliban's take over in the summer of 2021.[97]

The rationale brought by the government of Canada to justify the 2012 regulatory changes was that of reducing processing times and addressing the issue of growing private sponsorship backlog. Indeed, statistics show that a gradual decrease in backlog occurred after the introduction of those measures. Later on, however, the substantial reduction in processing capacity produced by the Covid-19 pandemic, brought again backlog numbers to record high levels.[98]

Interviews conducted for this Report, including those with beneficiaries of international protection, identified complex application procedures and long processing times as major issues threatening the sustainability of the PSR program, resulting in heightened protection risks for refugees stuck abroad and causing sponsors to lose interest in pursuing applications.[99] An interviewee working in the field of research argued that, rather than to restrictions placed on sponsors' discretion to submit applications, the significant reduction

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96 See RSTP, 'Refugees from Syria & Iraq: Changes to documentation needed for Groups of Five & Community Sponsors', September 19, 2015, https://www.rstp.ca/en/refugee-sponsorship/latest-policy-program-update/changes-for-sponsoring-syrian-iraqi-refugees/

97 J. Hyndman, W. Payne, & S. Jimenez, 'The State of Private Refugee Sponsorship in Canada: Trends, Issues, and Impacts', p. 9. Interview CAN20.

98 According to numbers from Immigration, Refugees and Citizenship Canada, there were 110,661 refugee applications — 38,681 government-assisted and 71,980 privately sponsored refugees — yet to be processed as of April 2022; See P. Dayal, 'Refugees feel forgotten as Canada's immigration backlog sits at nearly 2 million applications', CBC News, May 1 2022, https://www.cbc.ca/news/canada/saskatoon/refugees-in-limbo-wait-continues-1.6436259

99 Interview CAN19, CAN21, CAN23, CAN37, CAN41, CAN43. Refugee sponsorship application processing times vary greatly based on the country where the applicants reside; the average processing time in March 2022 was 35 months. See Government of Canada, Inventories and Processing Times – March 28, 2022, https://www.canada.ca/en/immigration-refugees-citizenship/corporate/transparency/committees/lang-mar-28-2022/inventories-processing-times.html; Thériault, 'Settling The Law', p. 148.

in processing times as of 2015 should be linked with increases in annual admission levels decided by the government over the same period. The same source pointed to excessive bureaucracy as a structural factor responsible for the processing backlog: as an example, despite the above-mentioned requirement of positive RSD for certain categories of applicants, visa officers still conduct a full eligibility assessment of each case, in fact producing a duplication of work that substantially impact on processing times.[100]

It should be further noted that Canadian law foresees a number of additional criteria that need to be fulfilled by an applicant to be considered eligible for resettlement under the PSR program. First, an applicant should not have any prospect of achieving a 'durable solution' within a reasonable period of time in a country other than Canada.[101] Second, visa officers need to be satisfied that an applicant fulfils the requirement of 'successful establishment' in Canada, which is assessed on the basis of a set of social factors.[102] Despite widespread criticisms raised over the years by scholars and civil society organisations, successful establishment remains among the criteria formally in place for overseas selection, thought little is known about how it is currently applied in practice.[103]

Even if a refugee applicant has been found to be eligible for protection in Canada, she/he still must fulfil admissibility criteria based on medical, serious criminality and security grounds. Interviewees reported that only limited information on security checks is provided to refugees and their sponsors by the authorities throughout the admission process. When additional security checks are conducted, applications can get stuck in the system for lengthy periods of time without any decision being taken.[104]

Refugees have limited access to avenues for review in case of a negative decision on their application. Unlike inland refugee claimants receiving a negative determination – who are

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100 Interview CAN21. See also Labman, 'Crossing Law's Border', p. 163.

101 IRPR, 139(1)(d).

102 In making this assessment, the visa officer will consider the following factors: a) resourcefulness and other similar qualities that assist in integration; b) the presence of relatives or a sponsor in Canada; c) potential for employment in Canada; d) the ability to speak or learn to speak English or French. IRPR, 139(1)(g).

103 See P. Thériault, 'Settling the Law', p. 129.

104 Interview CAN15.

entitled to pursue an appeal at the Refugee Appeal Division (RAD) – rejected resettlement applicants do not have the right to an appeal procedure on the merits. Even if it is formally possible for an applicant to make a request for reconsideration of a decision directly to the responsible visa officer, the latter enjoy a high level of discretion when assessing such request. The only formal recourse available to applicants is judicial review before the Federal Court of Canada. Judges at the Federal Court do not have the authority to overturn a decision on the merits; they can however decide to quash the decision based on a number of grounds, including breach of procedural fairness, and send the case back to the visa officer for redetermination.[105]

Existing research on the role of judicial review in the context of Canada's resettlement system has shown that access to judicial review before the Federal Court of Justice is substantially limited by legal barriers, most notably the leave requirement applying in immigration and refugee matters.[106] In addition, applicants and their sponsors often lack the information and financial resources necessary to pursue an application for judicial review.[107] Overall, the possibility of filing a case with the Court is strictly dependent on sponsoring groups' availability to financially sustain the associated legal expenses.[108]

4.2. Vulnerability

The fact that the PSR program does not give priority to the selection of the most vulnerable refugees should not in principle be considered as an issue, given the availability of a specific channel, i.e., state-supported resettlement, operating on the basis of UNHCR criteria linked to vulnerability. Recently, however, the commitment by the government of Canada to respecting the principle of additionality has been called into question, with admissions of privately sponsored refugees outnumbering those of state-supported refugees by a ratio of 2:1 in the period 2017-2019.[109]

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105 For a detailed analysis of the role of judicial review in the context of Canada's resettlement system see Thériault, 'Settling the Law', Ch. 6.

106 Ibid., p. 139

107 Ibid., p. 140.

108 Interview CAN15, CAN21.

109 Interview CAN20. Macklin and Blum, p. 21.

Scholars and practitioners alike have underlined how a commitment from the Canadian government to respect the principle of additionality is key to preserve the specificity of the PSR program.[110] Over the years, private sponsorship organisations have indeed repeatedly warned against the negative consequences associated with a model of 'privatizatised resettlement'. They stressed that the key role played by private sponsors within the Canadian resettlement system should not relieve the government from assuming its role in resettling the 'most vulnerable refugees'.[111]

From the governments' perspective, already in the early 1990s concerns were raised that private sponsorship was turning into a tool for expanded family reunification.[112] As resettled refugees establish themselves in Canada, many seek to activate private sponsorship as the only available channel to reunite with other displaced family members, a dynamic known in the Canadian context as 'echo effect'.[113] The establishment of the BVOR stream in 2013 should be seen as an attempt by the government to take back control over 'naming' by engaging sponsors in the admission of UNHCR-referred refugees.[114] While the BVOR initially attracted considerable attention, in particular in the aftermath of the 'Syrian crisis', interest among Canadians in welcoming 'unknown' refugees has since subsided, making it difficult for the program to meet the targets established for the following years.[115]

A component of the PSR program that focuses specifically on vulnerability is the Joint Assistance Program (JAS). Under this program, SAHs and their constituent groups commit to support refugees with special needs, including those affected trauma caused by violence

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110 S. Labman, 'Private Sponsorship: Complementary or Conflicting Interests?', *Refuge*, 32(2), pp. 67-80.

111 Interview CAN16, CAN19, CAN20. Macklin and Blum, 'ASILE Country Fiche'.

112 S. Labman, 'Private Sponsorship: Complementary or Conflicting Interests?', p.69.

112 Ibid., p. 73.

113 Interview CAN16, CAN33, CAN35, CAN37, CAN42. Macklin and Blum, 'ASILE Country Fiche', p. 23.

114 Shauna Labman and Madison Pearlman, 'Blending, Bargaining, and Burden-Sharing: Canada's Resettlement Programs', Journal of International Migration and Integration, 9, pp. 439–449, 2018.

115 Interview CAN15. See also S. Labman and J. Hyndman, 'BVOR Briefing Note', May 1, 2019, https://crs.info.yorku.ca/files/2019/04/BVOR-Briefing-2019-May1.pdf?%20x44358; G. Cameron and S. Labman, 'How Canada plans to break records with its new refugee targets', The Conversation, 15 November 2022, https://theconversation.com/how-canada-plans-to-break-records-with-its-new-refugee-targets-193880

or torture, medical disabilities, the effects of systemic discrimination, or having a large number of family members.[116] Sponsoring groups cannot nominate individuals under the JAS, but only select them among a list of cases referred by Canadian authorities.[117]

Throughout the years, the Canadian government, in collaboration with sponsor groups and civil society organisations, has supported a number of other 'niche programs' focusing on refugee groups in a vulnerable situation.[118] Among these are the 'Lamp Lifeboat Ladder',[119] which focuses on the resettlement of refugee survivors of torture, and the Rainbow Refugee Program, which target refugees persecuted due to their sexual orientation, gender identity or HIV status.[120] In addition, 'Operation #NotForgotten' was launched in 2019 as a community-led response for sponsoring refugees stuck in Australia's offshore processing centres in Papua New Guinea, Nauru or detained in Australia.[121] These initiatives, however, currently represent only a small share of the overall PSR program's intake.[122]

Vulnerability considerations have also been streamlined by some SAHs within the list of criteria they consider when selecting candidates for sponsorship among the cases that are brought to their attention by sponsor groups.[123] However, a practitioner interviewed for

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116 Under a joint assistance sponsorship, the government provides financial assistance for the entire duration of the sponsorship, usually for a 24-month period. Private sponsors must agree to provide orientation, settlement assistance and emotional support for the same period. See Government of Canada, 'Joint Assistance Program: How to apply', https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/help-outside-canada/private-sponsorship-program/joint-assistance-program/apply.html (last accessed 11 October 2022).

117 See Refugee Sponsorship Training Program, 'The Joint Assistance Sponsorship (JAS) Program', https://www.rstp.ca/en/jas/joint-assistance-sponsorships/#:~:text=Joint%20Assistance%20Sponsorship%20(JAS)%20refers,in%20Canada%20than%20other%20refugees (last accessed 11 October 2022).

118 Interview CAN15, CAN20.

119 See 'Lamp, Lifeboat, Ladder', https://www.lamplifeboatladder.org/

120 See Rainborefugee program, https://www.rainbowrefugee.com/

121 See Operation #NotForgotten, https://www.refugeecouncil.org.au/canada/

122 CAN15, CAN22.

123 CAN15, CAN16, CAN22. SAHs may need to find ways to prioritise cases for acceptance if they receive more requests for sponsorship than they have the capacity to handle or if requests exceed their allocated quota. See Global Refugee Sponsorship Initiative, Guidebook and planning tools based on

this Report pointed to the practical and conceptual challenges that SAHs face when trying to apply a 'vulnerability lens' when selecting individuals to prioritise for sponsorship. This relates to the fact that SAHs do not have direct contact with refugees overseas but can only rely on the information provided by groups or co-sponsors who bring cases to their attention.[124] More fundamentally, SAHs willing to incorporate vulnerability considerations in their selection process are confronted with the challenge of establishing criteria and tools for identifying and assessing different levels of vulnerability.

Besides the overarching issue of additionality and the related question about the role that private sponsorship should play in welcoming refugee with high vulnerabilities, another important debate within Canada's stakeholders community concerns the issue of identifying and addressing vulnerabilities emerging after refugees' arrival in Canada.

Sponsors are assigned a key role in providing psychosocial and practical support to newcomers.[125] This is particularly the case when sponsors are direct or extended family members of refugees.[126] Sponsored refugees have also access to a well-established network of government funded settlement agencies, which work in a complementary fashion with sponsors to promote inclusion and address specific needs.[127] The recognition of sponsors' key role in addressing emerging vulnerabilities should not overlook the wide differences in the level of support that different sponsoring groups are able to provide, with an interviewee adding that sponsors' capacity to address specific needs can vary widely between urban and rural locations.[128] Lack of coordination and sometimes tensions between sponsors groups and settlement organisations have also been documented, negatively impacting on the settlement process of refugees.[129] Evidence of this issue has led government authorities and stakeholders

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Canada's model, Interview with representative of the Anglican Diocese of Ottawa, 2022, https://refugeesponsorship.org/resource-directory/grsi-guidebook/

124 Interview CAN15.

125 Interview CAN19, CAN20.

126 Interviews CAN33, CAN37, CAN39, CAN40, CAN42, CAN43.

127 Interview CAN37, CAN38.

128 Interview CAN14.

129 Interview CAN19, CAN22.

to develop a number of initiatives aimed at bridging the identified 'gaps' and improve coordination, for example by ensuring joint responses to complex refugee needs and vulnerabilities.[130]

An Internal Audit of the Private Sponsorship of Refugees Program published in June 2021 pointed out how, in parallel with its significant growth over the preceding years, the PSR program had experienced several integrity issues. These include shortfalls in supports provided to refugees (e.g., income support, adequate housing),[131] fraud (e.g., use of falsified financial or identify documents) and exploitation (e.g., sponsors requiring refugees to self-fund or pay to be sponsored). [132]

As a response to the identified shortcomings, a set of tools have been established by Canadian authorities to improve sponsors' fulfilment of their commitments and compliance with existing regulations. The Refugee Sponsorship Training Program, funded by the Canadian government, develops tools that SAHs can use to ensure that sponsoring groups provide quality settlement assistance.[133]

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[130] Interview CAN31. See 'Intentional Connections for Welcoming Communities Improving Settlement for Privately Sponsored Refugees in Ontario through Settlement-Sponsor Collaboration', https://ocasi.org/sites/default/files/ari-final-report-2021-intentional-connections_0.pdf. See also Section 6 below for further elaboration on this aspect.

[131] In the aftermath of the special resettlement initiative for Syrian refugees over 2015-2016, cases of sponsors providing insufficient support were reported. See J. Nancarrow Clarke and T. Marlow. 'The cracks in our admired private refugee sponsorship program', *Policy Options*, 30 January 2020, https://policyoptions.irpp.org/fr/magazines/january-2020/the-cracks-in-our-admired-private-refugee-sponsorship-program/; See also, Craig Damian Smith, Tea Hadziristic, Lina Alipour, 'Private Sponsorship is Not a Panacea for Refugee Integration', *The New Humanitarian*, 4 April 2017, https://deeply.thenewhumanitarian.org/refugees/community/2017/04/04/private-sponsorship-not-panacea-for-refugee-integration-researchers; the same integrity concerns also emerged during interviews (Interview CAN15, CAN22).

[132] Government of Canada, Internal Audit of the Private Sponsorship of Refugees Program, 2021, https://www.canada.ca/en/immigration-refugees-citizenship/corporate/reports-statistics/audits/internal-audit-private-sponsorship-refugees-program.html

[133] Interview CAN15 and CAN22; See RSTP, 'SAHs: Best Practices for Monitoring', online: https://www.rstp.ca/en/sponsorship-responsibilities/best-practices-for-monitoring-for-sahs/ (last accessed 11 October 2021).

Canadian authorities are also involved in proactively monitoring the activities of SAHs through a process named 'routine monitoring', which relies on online questionnaires or telephone interviews with a randomly selected group of refugees to check that adequate supports are being provided and identify potential shortcomings.[134] Canadian authorities are also in the process of developing a 'Program Integrity Framework', which focuses on pre-arrival monitoring and aims at ensuring that sponsors meet financial requirements and relevant support structures are in place before refugees arrive in Canada.[135] Existing mechanisms, however, mostly concerns the monitoring of SAHs sponsorships, with interviewees underling how the Canadian government is currently not able to exercise a corresponding level of oversight on 'Groups of Five' and Community Sponsors, despite the latter being responsible for a substantial share of sponsorships.[136]

Concerning the role played by state agencies, interviewees underlined the need of increasing the level of coordination between different levels of government. While the Federal government has the main authority for immigration, responsibility for the integration and settlement of newcomers fall under the responsibility of provincial and municipal authorities. It was reported that sponsorship groups in specific provinces or cities are struggling to ensure that refugees have access to adequate support, including healthcare. This circumstance may be particularly challenging for those sponsorship organisations that committed to sponsor refugees with high vulnerabilities. An interviewee pointed in this regard to the existence of a 'disconnect' between the ambition of the government to increase the number of sponsored arrivals and the quality of the support system that sponsors can rely upon.[137]

4.3. Right to work

Refugees resettled under the PSR program are granted permanent residence status upon their arrival in Canada. Among other things, this status gives beneficiaries the right to work

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[134] IRCC, 'Private Sponsorship of Refugees Program: Post-arrival Assurance Activities', https://www.rstp.ca/wp-content/uploads/2021/04/PSR-Post-Arrival-Assurance-Activities-March-2021.pdf

[135] Government of Canada, Internal Audit of the Private Sponsorship of Refugees Program, point 37; Interview CAN15, CAN24, CAN25.

[136] Interview CAN15, CAN31.

[137] Interview CAN15.

and move freely anywhere in the country. While formally enjoying the same set of rights, existing evidence supports the conclusion that privately sponsored refugees achieve higher levels of inclusion in the Canadian labour market than government assisted refugees. A government study released in early 2020 examines the "economic attainments" of resettled refugees for the period 1980-2009. The study concludes that privately sponsored refugees have higher employment rates and earnings than government-assisted refugees, even when controlling for differences between groups related to education, age, official language ability, and other socio-demographic characteristics.[138] On the basis of existing evidence, some authors have argued that "community sponsorship programmes enhance integration because refugees benefit directly from the personal attention and networks that sponsors provide".[139]

Other authors, however, have cautioned against attributing divergent levels of economic inclusion solely to the higher quality of support received by sponsored refugees, without considering other important variables. They underlined how PSRs tend to be selected based on family or other connections to people in Canada, while GARs are selected on the basis of UNHCR criteria linked to protection needs and vulnerabilities. The latter group thus faces specific circumstances limiting their potential inclusion into the labour market, at least in the short term.[140]

As part of the sponsorship undertaking, sponsoring groups commit to assist refugees in finding an employment.[141] Sponsors are required to register refugees with local settlement agencies, which provide a set of employment related services, including networking,

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[138] L., Kaida, F. Hou, and M. Stick, 'The Long-term Economic Outcomes of Refugee Private Sponsorship', Ottawa: Statistics Canada, 2020, https://epe.lac-bac.gc.ca/100/201/301/weekly_acquisitions_list-ef/2020/20-03/publications.gc.ca/collections/collection_2020/statcan/11f0019m/11f0019m2019021-eng.pdf

[139] J. Bond, 'The power of politics', p. 159.

[140] Interview CAN16. See also S. Lehr and B. Dyck, '"Naming" Refugees in the Canadian Private Sponsorship of Refugees Program: Diverse Intentions and Consequences", In S. Labman and G. Cameron (eds.) *Strangers to Neighbours Refugee Sponsorship in Context,* Montreal & Kingston: McGill-Queen's University Press, pp. 42-60.

[141] Groups of Five and Community Sponsors must submit a Settlement Plan to the Government of Canada detailing how the group intends to provide settlement assistance, counselling, and support to the resettled refugees during the sponsorship period.

mentorship, work placement, and preparation for the credential assessment process. Sponsors, however, are also expected to provide additional assistance to help refugees understand the specificities of the Canadian labour market, including on aspects related to cross-cultural communication and the use of their previously acquired qualifications and skills.[142]

The added value of the personalised support provided by sponsors to enter and navigate the job market was acknowledged by several interviewees. An interviewee explained that sponsors often "leverage their own networks" to put refugees in contact with employers and liaise with relevant organisations to help them being accredited to work in a specific sector.[143] Another interviewee described private sponsorship as "a way in which the state, rather than providing support itself can find people who are eager to put in their expertise, resources and contacts to easing refugee access to the local labour market".[144]

Despite the potential benefits of this approach, one interviewee cautioned that not all private sponsorship organisations, which are more often community or faith based, have specific expertise in the field of labour market inclusion.[145] This point was accompanied by a recommendation addressed to Canadian authorities to strengthen existing state-funded employment programs and improve connections and collaboration between sponsors and service provider organisations.[146]

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142 GRSI Guidebook, 2022, 'How Can sponsors assist refugees to find employment', https://refugeesponsorship.org/resource-directory/grsi-guidebook/

143 Interview CAN5, CAN22, CAN23, CAN 4-24, CAN26.

144 Interview CAN4. See also 'The Experience of a Business Sponsoring Refugees', GRSI Guidebook, 2022, https://refugeesponsorship.org/resource-directory/grsi-guidebook/

145 Interview CAN5, 29.04.2021. See Government of Canada, 'Sponsorship Agreement Holders: About the program', https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/help-outside-canada/private-sponsorship-program/agreement-holders.html

146 Interview CAN22, CAN26, CAN38. On this point see: Suzan Ilcan, Diana Thomaz, and Manuela Jimenez Bueno, 'Private Sponsorship in Canada: The Resettlement of Syrian Refugees in the Kitchener-Waterloo Region', Policy Points, International Migration Research Centre, March 2020, https://scholars.wlu.ca/cgi/viewcontent.cgi?article=1041&context=imrc; Mehrunnisa Ahmad Ali, 'Towards a Unified Model of Refugee Resettlement', Policy Brief, Canada Excellence Research Chair in Migration & Integration, September 2021, https://www.ryerson.ca/content/dam/cerc-migration/Policy/CERC_PolicyBrief04_Sept2021.pdf;

In addition, interviewees observed that sponsors may sometimes be induced to put pressure on refugees to enter the labour market as soon as possible.[147] However, entering the job market too early may imply that refugees obtain employment in jobs that are not commensurate with their skills and experience.[148] A key component of private sponsorship is a commitment by sponsors to provide income assistance to refugees for their first twelve months in Canada. This one-year period is specifically foreseen to enable refugees to get settled and gain important skills (such as language knowledge) that are crucial for navigating the labour market.[149] Interviewees underlined how, while supporting refugees in finding a suitable employment, sponsors should respect refugees' autonomy in making their own employment decisions.[150]

Furthermore, interviews with sponsored refugees in Canada highlighted the key role played by civil society, including refugee-led, religious and diaspora organisations, in supporting newcomers by offering language training and proving volunteer opportunities that are of key importance for facilitating entry into the labour market.[151] Interviewees also called for settlement policies and programmes to incorporate a gender dimension. For example, they underlined how women may experience language training barriers due to gendered divisions of labour in the family (e.g., due to their caregiving roles).[152] The previous highlights the need to collect additional evidence on how gender differences impact on employment perspectives. It additionally points to the importance of establishing gender-responsive settlement services, including language training and employment programs, designed to meet the specific needs of refugee women.

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147 Interview CAN22.

148 Interview CAN22, Interview CAN25.

149 Interview CAN24. See also GRSI Guidebook, 2022, 'Is it mandatory for privately sponsored refugees to find Employment?', https://refugeesponsorship.org/resource-directory/grsi-guidebook/

150 Interview CAN15, CAN22

151 Interview CAN36, CAN37, CAN38, CAN41. On this aspect see, among others, Alberta Association of Immigrant Serving Agencies (AAISA), 'Alberta Syrian Refugee Resettlement Experience Study', 2016, p. 33, https://aaisa.ca/wp-content/uploads/2020/07/Alberta-Syrian-Refugee-Resettlement-Study_Final.pdf

152 Interview CAN43, CAN44.

5. Economic Mobility Pathways Pilot (EMPP)

In the second quarter of 2022, the number of vacant jobs in Canada amounted to nearly one million, the highest quarterly number on record.[153] In the same year, 3 out of every 4 Canadian employers reported difficulties in finding the talent they need, with this share having grown steadily since 2014.[154] These figures create a favourable context for the development of new labour migration pathways for refugees.[155] Launched in April 2018, the EMPP enables to circumvent existing barriers preventing refugees from accessing Canada's permanent resident labour programs. Initially identified obstacles included lost or expired documentation, limited funds, difficulty in obtaining proof of previous professional experience and limited access to consultants or lawyers who may guide potential applicants through the immigration process.[156]

Interviewees emphasised that the EMPP is perceived by involved stakeholders as "employer-focused".[157] The EMPP aims at allowing employers to tap into the largely unexplored professional talent of refugees, by making "refugees talent pool visible to employers in a way it wasn't before".[158] This approach results in employers viewing the EMPP as both a workforce development project and a humanitarian project.[159]

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153 Statistics Canada, 2022, 'Job vacancies, second quarter 2022'. The Daily. https://www150.statcan.gc.ca/n1/daily-quotidien/220920/dq220920b-eng.htm

154 ManpowerGroup, 2022, 'Canada's 2022 Talent Shortage'. https://go.manpowergroup.com/hubfs/Talent%20Shortage%202022/MPG_2022_TS_Infographic-Canada.pdf

155 Government of Canada, 2021, 'Economic Mobility Pathways Pilot'. Immigration, Refugees and Citizenship Canada. https://www.canada.ca/en/immigration-refugees-citizenship/news/2021/06/economic-mobility-pathways-pilot.html

156 Interview CAN13; Government of Canada, 2021, 'Economic Mobility Pathways Pilot'; IRCC-UNHCR Partner's Dialogue on the Economic Mobility Pathways Project (EMPP), Outcome Document, July 2019, https://www.unhcr.ca/wp-content/uploads/2019/07/The-Economic-Mobility-Pathways-Project-Policy-Principles-and-Lessons-Learned-June-2019.pdf

157 Interview CAN14.

158 Ibid.

159 Ibid.

The EMPP aims at bridging gaps between Canada's refugee and labour migration systems, which previously did not interact with each other.[160] It begins by identifying local employers in participating regions of Canada who have specific labour market needs. It then relies on NGO partners - primarily Talent Beyond Boundaries and RefugePoint – to identify refugees in countries of first asylum with skill profiles that match employers' demonstrated needs.[161] Rather than moving through Canada's resettlement system, the EMPP expands access to existing economic channels to refugees whose skillsets match the needs of local employers. In this way, the EMPP aims at avoiding the administrative hurdles required to create an entirely new migration channel targeted to refugee workers. Upon arrival, participants already have a job contract and share the same support and resources available to other categories of economic migrants with permanent residence in Canada.

A holistic analysis of an initiative such as the EMPP, whose stated aim is that of facilitating refugees' access to the labour market, requires looking beyond the number of refugees admitted trough that channel. The sustainability of the EMPP need to be assessed against several additional criteria, which include equity of access and non-discrimination, respect of family unity as well as equality of working conditions and enjoyment of socio-economic rights by beneficiaries (and their family members).

In the Canadian context, where commitment by state authorities to 'additionality' is under discussion, the potential expansion of the EMPP may contribute to shift Canada's overall perspective on which refugees to prioritise for admission, and lead to further delegation of responsibility for the selection and support of beneficiaries to private actors (employers and contracted third-party recruitment organisations).[162] As underlined in the following section, prioritizing the admission of highly skilled refugees risk exacerbating the structural

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160 Interview CAN6.

161 See Government of Canada, 'Hire through the Economic Mobility Pathways Pilot: Our partners', https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/economic-mobility-pathways-pilot/hire/partners.html (last accessed 30 October 2022).

162 Interview CAN16. See also S. Labman and S. Zell, 'The shift towards increased citizen-driven migration in Canada', in C. Dauvergne (ed.), *Research Handbook on the Law and Politics of Migration*, Cheltenham, Northampton: Edward Elgar, pp. 110-124.

situation of disadvantage faced by refugees with lower skill levels, if suitable channels of admissions targeting those groups as well are not established.[163]

5.1. Selection process and eligibility criteria

IRCC claims that the EMPP was designed respecting a set of core protection-oriented principles: a) additionality of admissions to Canada's resettlement quotas; b) provision of a durable solution by granting selected refugees permanent residence in Canada and a clear path to citizenship; c) alignment with international protection priorities, by prioritising refugees from countries applying the Comprehensive Refugee Response Framework or the 3RP strategy (initially Kenya and Lebanon); d) gender equality among the candidates.[164]

Operationally, the EMPP functions by connecting refugees with the following pre-existing Canadian labour migration programs: the 'Express Entry' program,[165] the Atlantic Immigration Program (AIP),[166] the recently created Rural and Northern Immigration Pilot

[163] See Craig Damian Smith and Dana Wagner, 'How Canada can address skills shortages by improving access to economic pathways for refugees and displaced people in Latin America', CERC Policy Brief, No. 01 April 2021, https://www.ryerson.ca/content/dam/cerc-migration/Policy/Final_PB_Smith_Wagner_April19.pdf

[164] IRCC-UNHCR Partner's Dialogue on the Economic Mobility Pathways Project (EMPP), Outcome Document, 2019.

[165] Express Entry is an electronic system to manage the intake of applications for permanent residence lodged under the following Canadian economic immigration programs: Federal Skilled Worker Program; Federal Skilled Trades Class; Canadian Experience Class; Express Entry for the Provincial Nominee Program. See Government of Canada, 'How Express Entry works', https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/express-entry/works.html (last accessed 14 October 2022)

[166] The AIP is a special pathway tailored to encourage skilled and semi-skilled migration to the four Atlantic Canadian provinces of Newfoundland and Labrador, Prince Edward Island, Nova Scotia, and New Brunswick. See Government of Canada, 'Atlantic Immigration Program', https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/atlantic-immigration.html

(RNIP),[167] and the numerous Provincial Nominee Programs (PNP).[168] While the technical nuances of these three programs differ, their core objective is to facilitate the entry and permanent residence of skilled workers into Canada.

During Phase 1 of the EMPP's implementation, no applicants were able to enter through the 'Express Entry' programs, given the narrower skills profiles and stricter application requirements of these programs.[169] Interviewees emphasized that the remaining three economic migration pathways focused on the provincial or local level offered the greatest flexibility in reducing the barriers to eligibility for refugee workers with a diverse range of skills, while recognizing that further work to improve accessibility remains.[170]

Employers hoping to resettle and hire refugees through the EMPP must first file with their provincial government for approval. Second, following a skills-matching process coordinated by NGO partners supporting the implementation of the program in the countries of asylum,[171] selected candidates need to apply for one of the above mentioned

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167 The RNIP targets smaller and more remote communities facing labour shortages, within 11 communities in Ontario, Manitoba, Saskatchewan, Alberta, and British Columbia. The RNIP aims at addressing labour shortages in key sectors, such as health care, hospitality, and food services, retail, manufacturing and transportation, see Government of Canada, 'Rural and Northern Immigration Pilot: about the pilot', https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/rural-northern-immigration-pilot.html

168 PNP is a broad term for the skilled labour migration pathways adopted in eleven of Canada's provinces and territories, with Québec having a separate skilled migration pathway, and Nunavut lacking such a program. See Government of Canada, 'How the Provincial Nominee Program (PNP) works', https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/provincial-nominees/works.html

169 Immigration, Refugees and Citizenship Canada (IRCC), 'The Economic Mobility Pathways Project: Exploring labour mobility as a complementary pathway for refugees'. https://www.canada.ca/content/dam/ircc/documents/pdf/english/corporate/reports-statistics/evaluations/the-economic-mobility-pathways-project.pdf

170 Interview CAN29. See Appendix III.

171 Under EMPP phase two, seven NGOs are involved in supporting different stages of the pilot's implementation, including the identification of potential candidates and their 'matching' with interested Canadian employers. These are: Talent Beyond Boundaries (TBB), RefugePoint, TalentLift, Jumpstart Refugee Talent, Hebrew Immigrant Aid Society (HIAS), FOCUS Humanitarian Assistance, and the International Rescue Committee (IRC). See Government of Canada, 'Hire through the Economic Mobility Pathways Pilot: Our partners', https://www.canada.ca/en/immigration-refugees-

(AIP, PNP, RNIP, or 'Express Entry'). As a third step, employers are requested to notify about their application to the IRCC or the provincial/territorial officials, to ensure the application is processed smoothly.[172]

Phase 1 of the EMPP lasted from April 2018 until end of 2019, leading to the successful admission of 6 principal applicants and 9 family members[173] Under phase 2 of the project, which began in December 2021, Canadian authorities committed to increase the number of admissions to at least 500 individuals.[174] A commitment to further increase the EMPP intake to 2,000 beneficiaries was included in the mandate letter to the Minister for Immigration, Refugees, and Citizenship, Sean Fraser, in December 2021.[175] One participant at the Canadian ASILE Regional Workshop indicated that initial implementation of EMPP phase two began slowly, with 22 applicants admitted and an additional 50 refugees receiving a job offer by May 2022.[176] However, implementation accelerated during summer 2022, with more than 100 refugee workers and their families arriving in Canada through the EMPP by October 2022.[177]

Under phase 1 of the EMPP, candidates were required to provide proof of refugee recognition from UNHCR or a foreign state to be considered eligible. This requirement was

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citizenship/services/refugees/economic-mobility-pathways-pilot/hire/partners.html (last accessed 19 January 2022).

172 Immigration, Refugees and Citizenship Canada (IRCC), 'The Economic Mobility Pathways Project: Exploring labour mobility as a complementary pathway for refugees'.

173 Ibid.

174 Immigration, Refugees and Citizenship Canada (IRCC), 'The Economic Mobility Pathways Project: Exploring labour mobility as a complementary pathway for refugees'; Interview CAN5.

175 Minister of Immigration, Refugees and Citizenship Mandate Letter, December 16, 2021. https://pm.gc.ca/en/mandate-letters/2021/12/16/minister-immigration-refugees-and-citizenship-mandate-letter

176 ASILE Regional Workshop: Canada. 'Containing and Controlling Mobility in Canada and the EU: Safe Third Country Agreements and Complementary Pathways'.

177 Government of Canada, 2022, 'Canada expands pilot to help more skilled refugees build their careers in Canada, giving employers access to a new pool of talent'. Immigration, Refugees and Citizenship Canada. https://www.canada.ca/en/immigration-refugees-citizenship/news/2022/12/canada-expands-pilot-to-help-more-skilled-refugees-build-their-careers-in-canada-giving-employers-access-to-a-new-pool-of-talent.html

easily satisfied in the case of refugees in Kenya, due to the existence of a formal refugee status determination process administered by the national government. However, potential applicants in Jordan and Lebanon faced restrictions in accessing UNHCR registration. To address that barrier, it was requested that individual candidates provided proof of 'recorded' status in the UNHCR database.[178]

Government of Canada revised EMPP eligibility criteria when launching Phase 2 of the pilot. Under the new rules, a candidate will qualify if they fulfil one of the three following conditions; a) be assessed by an IRCC Officer to have a valid, positive Refugee Status Determination (RSD) from either the UNHCR or a refugee-hosting state; b) be registered as an asylum seeker abroad (in case the RSD has not been obtained yet); c) be in possession of a "person of concern letter" issued by the UNHCR for the purposes of EMPP. In addition to possessing the previous documentation, candidates will still need to be determined as belonging either to the 'Convention Refugees Abroad Class' or the 'Country of asylum Class' by a Canadian visa officer.[179]

The above revisions make undeniable progress towards expanding the pool of individuals eligible for the EMPP. Yet, those changes do not eliminate the multiple barriers faced by refugees when trying to obtain documentation related to their status. Interviewees noted that displaced individuals may not have contact with or access to institutions that could provide them a "person of concern" letter, while they could also fear registering in a certain country out of concern this may restrict their movement in the future.[180]

Under Phase 2, the EMPP aims not only to expand the number of beneficiaries but also at 'levelling the playing field' by lifting remaining barriers to accession.[181] In June 2021, the

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178 Interview CAN6. IRCC-UNHCR Partner's Dialogue on the Economic Mobility Pathways Project (EMPP), Outcome Document, 2019.

179 See Government of Canada, 'Immigrate through the Economic Mobility Pathways Pilot: Who is eligible', https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/economic-mobility-pathways-pilot/immigrate/eligibility.html

180 Interview CAN30, CAN34.

181 Elgersma et al., 2020, 'Tapping the Potential of Displaced Talent: Lessons Learned'.

Minister of Immigration, Refugees and Citizenship announced a package of measures designed to address the main challenges identified in the review of Phase 1.[182]

These measures include an exemption for EMPP participants from the requirement to possess a valid travel document and granting them access to loans already available to other categories of resettled refugees. The measures also include the removal of the fees requested to EMPP participants when applying for permanent residence status and streamlined requirements for facilitating the admission of their family members. On an operational level, the IRCC awarded Talent Beyond Boundaries with a CA$135,000 research grant to develop a model for decreasing the high workload involved in the case-by-case matching of applicants with employers.[183]

In December 2022, additional measures were unveiled that are intended to further expand accessibility to the EMPP.[184] These expansions aim to ease the achievement of the Canadian government's stated goal of admitting 2,000 individuals through the EMPP by establishing a 'trusted partner' model. The latter will enable NGOs partners – Talent Beyond Boundaries, TalentLift and Jumpstart Refugee Talent – to directly refer and support EMPP candidates, akin to the 'Sponsorship Agreement Holder' model used in the PSR program.[185]

Interviewees explained that the identification of refugees' skills remains an evolving aspect of the pilot, not least due to the limitations of existing databases gathering skills profiles of refugees as well as the lack of conclusive evidence on the most effective approaches to

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182 Immigration, Refugees and Citizenship Canada (IRCC), 'The Economic Mobility Pathways Pilot: Exploring labour mobility as a complementary pathway for refugees'; Government of Canada 'Canada announces 3 new initiatives to welcome and support more refugees', 18.06.2021. https://www.canada.ca/en/immigration-refugees-citizenship/news/2021/06/canada-announces-3-new-initiatives-to-welcome-and-support-more-refugees.html

183 Ibid.

184 Government of Canada, 2022, 'Canada expands pilot to help more skilled refugees build their careers in Canada, giving employers access to a new pool of talent', https://www.canada.ca/en/immigration-refugees-citizenship/news/2022/12/canada-expands-pilot-to-help-more-skilled-refugees-build-their-careers-in-canada-giving-employers-access-to-a-new-pool-of-talent.html

185 Ibid.

identify suitable candidates.[186] Despite the demonstrated expertise of the NGO partners supporting the EMPP implementation, one interviewee noted that there were relevant disparities in the capacities and approaches of supporting NGOs in identifying refugees workers in different locations.[187]

For example, the NGO RefugePoint identifies candidates in Kenya from the pool of individuals previously involved in job training programs carried out by the organisation in the capital Nairobi and in refugee camps. This approach inevitably restricts the number of potential candidates, given that skilled individuals who did not previously participate in RefugePoint training activities may not be identified. On the other hand, the close relationship between RefugePoint and identified individuals can be considered as a factor fostering successful placements.[188] In addition, UNHCR offices in the country keep data on refugees' participation in education, job training, and scholarship programs, and uses these records to assist RefugePoint in identifying EMPP candidates, specifically in the Kakuma and Dadaab refugee camps.[189]

To be eligible for resettlement through the EMPP, all applicants must have their education credentials approved, biometric data collected, and medical evaluations completed. Fulfilling many of these administrative steps requires that applicants travel to the capital, Nairobi, to meet with IOM, UNHCR, or Canadian embassy officials. An interviewee pointed to the significant logistical costs associated with that process for both applicants and RefugePoint, underling how such logistical burden for both parties creates acute obstacles to obtain EMPP eligibility for individuals living in camp settings.[190]

Talent Beyond Boundaries (TBB) is the other main NGO supporting the EMPP implementation. TBB has been the first organisation in the world to develop and maintain a large database of refugee' skills profiles, initially focusing on Jordan and Lebanon, and

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186 Interview CAN5.

187 Interview CAN5.

188 Interview CAN14.

189 Interview CAN5; Immigration, Refugees and Citizenship Canada (IRCC), 'The Economic Mobility Pathways Project: Exploring labour mobility as a complementary pathway for refugees'.

190 Interview CAN28.

more recently extending its reach to several other countries.[191] Launched in 2016, TBB catalogue now comprises a repository of more than 48,000 individuals' skill profiles in around 150 distinct occupations.[192]

Upon receiving information concerning employers' needs, the TBB database is used to narrow down and interview potential participants.[193] TBB works in partnership with Canada-based NGOs Jumpstart Refugee Talent and TalentLift, which are tasked with contacting interested Canadian employers and identify available job positions.[194]

The recently envisaged expansion of NGOs partners' role in the EMPP implementation through the 'trusted partner' model merits continued attention, with a view to identifying best practices (and potential shortcomings) associated with alternative selection strategies. To support such endeavours, the Canadian government announced in December 2022 the provision of CA $6,200,000 for six projects that will support capacity building strategies of NGOs partners in areas such as identifying qualified candidates overseas, providing support during the interview, hiring, and immigration processes.[195]

A key factor influencing selection for the EMPP is the geographic scope in which NGOs partners operate. Interviewees underlined the tension between EMPP open design and its limited functional implementation. In principle, displaced individuals located everywhere in the world could register themselves in the TBB catalogue or directly apply to one of the economic migration pathways that would make them eligible for EMPP supports. However, this research found no evidence of individuals being able to facilitate their own

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191 To this end, Talent Beyond Boundaries began working in Thailand and Mexico in 2022. Elgersma et al., 2020, 'Tapping the Potential of Displaced Talent: Lessons Learned': Interview CAN32.

192 Talent Beyond Boundaries, 2022, 'Talent Catalogue Snapshot, August 2022'.

193 Interview CAN14.

194 Interview CAN32

195 Government of Canada, Canada expands pilot to help more skilled refugees build their careers in Canada, giving employers access to a new pool of talent, https://www.canada.ca/en/immigration-refugees-citizenship/news/2022/12/canada-expands-pilot-to-help-more-skilled-refugees-build-their-careers-in-canada-giving-employers-access-to-a-new-pool-of-talent.html (last accessed 23 January 2023).

resettlement through the EMPP without the operational and legal support of an NGO partner.[196]

An expansion of the EMPP geographical scope can pass through the establishment of new regional partnerships. UNHCR is currently developing a pilot with TBB to expand the reach of that organisation in Southeast Asia; it is also working with local NGOs in Peru and Columbia, and Mexico, with a view to creating the conditions for Venezuelan refugees to access labour market pathways.[197] Geographic expansion could further occur through 'targeted outreach' to include refugee communities in countries which are currently not covered by NGO efforts to catalogue refugee skill profiles.[198] Interviewees stressed the need for additional investments to expand the capacity of NGOs in countries of first asylum in identifying refugee skills and supporting candidates navigate the application process.[199]

As the EMPP aims at meeting employers' labour market needs, disparities in access inevitably emerge due to differences in the human capital endowments of potential participants. The EMPP narrow focus on applicants possessing specific qualifications risk replicating barriers to accession that characterise most of the existing Canada's labour admission programs.

The EMPP's facilitation of refugee workers' resettlement relies on the specific requirements of the AIP, PNP, RNIP, and 'Express Entry' labour migration mechanisms, although some of these requirements were modified for EMPP participants when launching Phase 2. While these programs present nuanced eligibility requirements, they all share preferential access to individuals with desired skill profiles and relatively inflexible criteria related to occupational categories outside of their remit (See Appendix III).

Interviewees added that "there are more than 80 immigration programs in Canada, but out of these only the minority focus on lower human capital opportunities," such as some

196 Interview CAN29

197 Interview CAN30; Interview CAN29.

198 Interview CAN32.

199 Interview CAN28; Interview CAN30.

seasonal tourism labour migration programs.[200] This skill-based bifurcation is mirrored by the more restrictive eligibility requirements of permanent economic migration pathways upon which the EMPP relies, compared to those characterising temporary migration pathways.[201]

The potential for the EMPP to operate on a larger scale and create durable solutions for a diverse range of refugees by capitalizing on Canada's labour shortages will thus depends on institutional readiness to explore alternative admission options, such as initial temporary migration with a progressive pathway to permanent residency.[202]

The requirement to provide proof of previous work experience or Canadian work experience remains a key barrier to potential candidates' eligibility. An interviewee commented in this regard that "no matter what experience you have, if you don't have a Canadian experience, it's another problem".[203] A second interviewee explained how this requirement precludes some potential Canadian employers from hiring refugee workers through the EMPP, because "[…] for employers with low skill roles in certain provinces, there's no pathway that doesn't require in Canada work experience".[204]

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200 Interview CAN5. interviewees identified three main professional categories of EMPP participants to date: IT professionals, healthcare workers, and skilled tradespeople (Interview CAN29; Interview CAN30).

201 The role of temporary work permits in Canada's labour market has grown greatly over the last two decades, especially in the areas of technicians and skilled trades workers. In 2017, 550,000 foreign workers were admitted to Canada, 214,000 of whom entered Canada on temporary pathways. This annual number increased in 2019 to 470,000 individuals receiving a temporary work permit to enter the country. See Lu, Y., and Hou, F., 2019, 'Temporary Foreign Workers in the Canadian Labour Force: Open Versus Employer-specific Work Permits'. *Statistics Canada*, Economic Insights. November. https://publications.gc.ca/collections/collection_2019/statcan/11-626-x/11-626-x2019016-eng.pdf; Lu, Y., 2020, 'The distribution of temporary foreign workers across industries in Canada'. *Statistics Canada*. June. https://www150.statcan.gc.ca/n1/en/pub/45-28-0001/2020001/article/00028-eng.pdf?st=He6ig3kB; OECD, 2019, 'Recruiting Immigrant Workers: Canada 2019'. *International Migration Division*. August. https://oe.cd/pub/recruiting-immigrant-workers-canada

202 Interview CAN13. See also ASILE Regional Workshop: Canada. 'Containing and Controlling Mobility in Canada and the EU: Safe Third Country Agreements and Complementary Pathways'. 7 September 2022. Centre for European Policy Studies (CEPS). https://www.youtube.com/watch?v=c7F006BUE64

203 Interview CAN27.

204 Interview CAN29.

For pathways such as the AIP and RNIP, work experience requirements entail being able to demonstrate a full year of experience in a specific field, although this requirement was eased under EMPP Phase two to be the equivalent of one year of work in the past five years for the AIP and three years for the RNIP, which must not necessarily be acquired in Canada.[205] Encouragingly, guidance on this matter issued by Government of Canada states, with reference to the AIP and RNIP work experience requirements, that "significant breaks and gaps in the accumulated work history are allowed".[206]

Nonetheless, work experience in Canada is still given preference when assessing individuals' applications. Interviewees further indicated that attaining work experience documentation may prove impossible for individuals whose place of work was destroyed in conflict or may put individuals' lives at risk by forcing them to return to hostile environments.[207]

Interviews allowed to identify some potential solutions to assuage obstacles posed by the requirement to document previous work experience. One interviewee hypothesized that current requirements could be adapted to accept alternative forms of documentation as sufficient evidence, for example as a photo of an applicant in their former workshop.[208] For individuals whose skills are recorded in the TBB 'talent catalogue', digital technology enables the automatic generation of a CV that matches the format that employers typically

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[205] Although no work experience is required for the Atlantic International Graduate Program component of the AIP, access to education at a Canadian university is inaccessible for most EMPP applicants. Interview CAN30; Government of Canada, 2022, 'Guide 0154 - Atlantic Immigration Program'; S. Thevenot, 2020, 'Canada eases eligibility requirements for Rural and Northern Immigration Pilot'; E. Robitaille, 2022, 'IRCC announces Rural and Northern Immigration Pilot Expansion'. *CIC News*. 31.08.2022. https://www.cicnews.com/2022/08/ircc-announces-rural-and-northern-immigration-pilot-expansion-0830336.html#gs.fma7mn

[206] Government of Canada, 2022, 'Economic Mobility Pathways Pilot (EMPP): Assessing the application against economic program selection criteria'. https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/permanent-residence/economic-classes/economic-mobility-pilot/assessing.html

[207] Interview CAN32.

[208] Interview CAN29.

expect, reducing a barrier for individuals who are unfamiliar with Canadian job application standards.[209]

Another major obstacle faced by applicants during EMPP phase one was related to the requirement of demonstrating adequate settlement funds. Providing proof of such funds can be challenging for refugees, who may not have access to the formal banking system.[210] As part of the revisions implemented when launching Phase two, the Canadian government formalised an agreement with the NGO Windmill Microlending, which enables EMPP participants to access funds up to $15,000 at a favourable interest rate for a wide range of costs associated with arrival, settlement, and integration in the new country.[211] EMPP participants granted microloans also receive financial counselling, support opening a bank account, and support establishing their credit history, all of which are crucial steps to facilitating their long-term stability in Canada.[212]

Interviewees underlined how protracted processing times faced by EMPP candidates disincentivise employers' form hiring refugee workers.[213] The long duration that employers must wait for potential hires through the EMPP contrasts with the 'employer-focused' nature of the EMPP described by its designers. In the initial years of implementation,

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209 Interview CAN32.

210 Elgersma, Sandra, Dyer, Lara, L'Esperance, Jennifer, MacIntosh Wiseman, Sarah, and Wagner, Dana (2020), 'Tapping the Potential of Displaced Talent: Lessons Learned'. In *Beyond 2020: Renewing Canada's Commitment to immigration*. Metropolis eBook. Volume 1. https://www.ciim.ca/img/boutiquePDF/608_metropolis_ebook_vol1_2020_v10_lr-n3qfp.pdf

211 Interview CAN29; Interview CAN30; Government of Canada, 2022, 'Economic Mobility Pathways Pilot (EMPP): Loans issued to applicants to be used as settlement funds'. https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/permanent-residence/economic-classes/economic-mobility-pilot/settlement-funds.html; Government of Canada, 2022, 'Canada expands pilot to help more skilled refugees build their careers in Canada, giving employers access to a new pool of talent'.

212 Interview CAN30; Windmill Microlending, 2022, "Congratulations! You are a skilled refugee who has secured a job offer in Canada as part of the Economic Mobility Pathway Pilot (EMPP)." https://windmillmicrolending.org/empp

213 Interview CAN34.

processing times resulted in candidates offered jobs in 2018 only being resettled to Canada in 2021, and others interviewed in 2019 being resettled in 2022.[214]

Currently, implementing actors estimated processing times for EMPP candidates range from roughly 12 to 15 months.[215] This conflicts with the Canadian government's December 2022 declaration that "in most cases, IRCC processes applications within 6 months".[216] No matter the exact waiting time, this situation led an interviewee familiar with the EMPP's implementation to state that "waiting time is a big problem".[217] Delays in processing originate from the numerous eligibility requirements described above. For many candidates, the process for obtaining proof of UNHCR registration or a person of concern letter represent a significant delay in the processing of their application.[218] Applicants also have to wait approximately nine months for obtaining the Education Credential Assessment (ECA) that confirms their education history.[219] Completing the above steps often requires applicants to travel to different locations; it can additionally requires access to a laptop or a Wi-Fi connection, creating further barriers for individuals in a situation of displacement.[220]

Interviews underlined how challenges surrounding EMPP candidates' eligibility also engender a significant number of 'missed admission opportunities'.[221] The latter arise mostly from inflexible eligibility criteria, such as restrictive skill profiles of EMPP-related economic migration pathways, minimum income requirements, or revenue requirements for employers looking to hire EMPP candidates. Other 'missed opportunities' were due to

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214 Interview CAN28; Interview CAN34.

215 Interview CAN28.

216 Government of Canada, 2022, 'Canada expands pilot to help more skilled refugees build their careers in Canada, giving employers access to a new pool of talent'.

217 Ibid.

218 Interview CAN30.

219 Interview CAN28.

220 Interview CAN30.

221 Interview CAN32.

candidates' failure to meet English language abilities or to provide documentation of past work experience.[222]

Challenges to the admission of refugee workers through the EMPP does not arise from a lack of efforts to include local employers from NGOs implementing partners. One interviewee reported that compared to the U.K., Australia, and New Zealand, Canadian NGOs such as Jumpstart Refugee Talent and TalentLift made the highest number of 'pitches' to employers, but that the number of individuals resettled through economic migration pathways in Canada remains significantly lower than in these other countries.[223] The previous points to the need of devoting special attention to both rectifying the rigidity of economic migration pathways' eligibility requirements when applied to refugee workers and reducing the associated processing times to capitalize on the existing 'pitches'.

5.2. Vulnerability

Interviewees underlined how EMPP's priority of matching skilled refugees with employers clearly shifts the focus away from applicants' vulnerabilities by recategorising refugees as "economic migrants".[224] They noted that "vulnerabilities aren't even a criteria for the EMPP", adding that "risk assessments" are not conducted when selecting candidates for the EMPP.[225] An interviewee explained that, as the top goal of the program is to reduce the time between the lodging of an application and the beginning of work, "if there are extra steps in processing of applications, such as vulnerability assessments, that can render them uncompetitive".[226] According to another interviewee, the EMPP's prioritization of employers' needs over other considerations is key in shifting "the employers' perception of participation in the programme from a burden to a benefit".[227]

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222 Ibid.

223 Ibid.

224 Interview CAN16.

225 Interview CAN14; Interview CAN5.

226 Interview CAN5.

227 Interview CAN14.

The lack of a specific focus on vulnerability results from the structure of the legal migration channels facilitating EMPP participants' entry, as "under these programs, immigrants are selected based on their human capital or ability to fill Canadian labour market needs rather than their vulnerability and need for protection".[228]

Partners involved in developing the Pilot, including state agencies, UNHCR and NGOs, underlined the "tremendous conceptual shift" promoted by the EMPP. Differently from resettlement programs, which are designed to target refugees with high protection risks, the EMPP promotes an understanding of refugees "in terms of their ability to contribute to Canada by way of skills and talents". At the same time, implementing actors recognised an inherent 'tension' between these two modes of admission, as those factors enabling access to labour pathways (skills training, qualifications, and experience) may be considered as decreasing the likelihood of being selected on the basis of resettlement criteria.[229]

Interviewees highlighted specific concerns about the level of support provided to EMPP participants once in Canada. As they are considered economic migrants, they have reduced access to a range of support services specifically envisaged to address refugees' needs. One interviewee expressed this problem in the following terms:

> [EMPP participants] are considered economic immigrants and as such they have access to a suite of services that are not necessarily designed with refugees in mind [...] it's a bit of a question mark: are they getting enough support, especially for family members? Because there are different services supporting resettled refugees that this group are not accessing.[230]

The form of reception and integration support offered to EMPP beneficiaries once arrived in Canada relies largely on employers and local implementing partners, creating differences in the level of support received by participants.[231] Furthermore, an interviewee expressed

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228 Immigration, Refugees and Citizenship Canada (IRCC), 'The Economic Mobility Pathways Project: Exploring labour mobility as a complementary pathway for refugees'.

229 IRCC-UNHCR Partner's Dialogue on the Economic Mobility Pathways Project (EMPP), Outcome Document.

230 Interview CAN5.

231 Ibid.

concern that some local NGOs and employers supporting the reception and integration of EMPP participants remain 'siloed' in their approach and not aware of the services already provided by other organisations and government agencies.[232]

Phase 2 of the EMPP will test two approaches to explore how larger numbers of refugee workers could access existing immigration program and benefit from adequate settlement support. The first approach relies on a 'community-driven model', whereby interested local communities coordinate a network of employers and civil society organisations to identify and settle EMPP participants. Funding from the IRCC Settlement and Integration Policy Branch is mobilised to support the activities of the network.[233]

The community-driven model seeks to build bridges between local NGOs involved in resettlement, charitable trusts, and government actors to better manage and coordinate the division of responsibilities between these different actors. In doing so, the community-driven model seeks to provide EMPP beneficiaries the same level of benefits received by privately sponsored refugees, relying on local civil society organisations to develop support systems in locations where refugees' social communities may be smaller or absent.[234]

In some communities where EMPP participants are hired, an interviewee reported that partnering with private sponsorship groups has allowed to provide wraparound support on aspects such as reception at the airport and local integration support.[235] These efforts aim at establishing a sustainable support ecosystem that can operate without significant outside intervention, by providing a seamless process through which refugee workers can more easily arrive and begin working in employers' communities.[236] An EMPP participant recounted how TBB and local groups provided them with a variety of support services when they arrived, ranging from creating a WhatsApp groups to put them in contact with a Canadian settlement worker, registering their family for language classes, showing them

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232 Interview CAN14.

233 Interview CAN5.

234 Interview CAN32.

235 Interview CAN30.

236 Interview CAN29.

how to register for a child benefit subsidy, and supporting them registering their children in schools.[237]

One such community that is testing the model is Pictou County, in Nova Scotia. The local Pictou County Regional Enterprise Network (PCREN), which works to promote local economic development and support local employers, collaborates with the Pictou County Safe Harbour, a community-based refugee sponsorship group, to provide targeted support to EMPP participants. This partnership addresses specific challenges, such as the lack of public transportation in rural areas and coordinates targeted service provision on aspects such as childcare and language training. In other areas, the EMPP's NGO partners FOCUS Humanitarian Assistance (FOCUS) and HIAS provide local reception and integration support to refugee workers resettled through the EMPP.[238]

The second approach that is going to be tested under Phase two is based on a sector-driven model. This envisages groups of employers in a similar economic sector working together to identify cohorts of suitable EMPP candidates and organise the settlement process.[239] The sister organisations of Talent Beyond Boundaries, TalentLift, and Jumpstart Refugee Talent, are working with Canadian employers to increase the number of EMPP positions available and monitor refugees' access to adequate working conditions.[240] This model is expected to enable employers to pool resources to address potential sources of vulnerability that EMPP participants might face, such as housing shortages, by investing in the construction of new purpose-built housing for refugee workers.

One specific area in which vulnerability may arise for refugee workers admitted through the EMPP is in securing adequate and affordable housing. An interviewee acknowledged

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[237] Interview CAN34.

[238] Government of Canada, 2022, 'Hire through the Economic Mobility Pathways Pilot: Find a candidate and program'. https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/economic-mobility-pathways-pilot/hire/find-candidate-program.html; FOCUS Humanitarian Assistance, 2022, 'Healthcare Professional from Afghanistan Arrives in St. John's Under Canada's Economic Mobility Pathways Pilot (EMPP)'. 10 .08.2022. https://www.focus-canada.org/home/2022/08/10/healthcare-professional-from-afghanistan-arrives-in-st-johns-under-canadas-economic-mobility-pathways-pilot-empp/

[239] Elgersma et al., 2020, 'Tapping the Potential of Displaced Talent: Lessons Learned', p. 24.

[240] Interview CAN12; Interview CAN13.

that in Canadian communities at present "we have a chronic housing shortage," and the challenges associated with this may be exacerbated for individuals who are new to Canadian communities and lack the local experience and support structures that Canadians can rely on to address challenges locating housing.[241]

Individuals in both rural and urban communities face these challenges, although they manifest in different ways. For individuals in rural areas such as the Yukon, an interviewee reported the case of seasonal workers who were forced to live out of their vehicles for the duration of the working season.[242] Urban areas, in contrast, present the challenge of significantly heightened competition for housing.[243] This competition could result in prospective renters offering to pay higher deposits or months of rent up front, which would preclude EMPP participants who cannot afford the same concessions from finding adequate housing.

Scholars identify the creation of 'refugee liaison worker' roles in locations where many EMPP participants will be hosted could offer them support in finding suitable housing.[244] Alternatively, this support could come from local resettlement NGOs that could leverage their community ties to support EMPP participants finding housing, or from groups of employers who could build and subsidize the needed housing. An interviewee noted that some employers have already built or purchased housing for staff they employ in sectors that EMPP participants could work in. However, the same interviewee, acknowledged that this was "[…] very rare and it's not something that is incentivized" and, therefore, the employers undertaking such efforts do so "[…] out of the goodness of their hearts and out of the need that they've seen in terms of challenges with retention".[245]

The allocation of state funds to subsidize and incentivize these promising practices could make important headway reducing challenges associated with housing refugee workers.

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241 Interview CAN32

242 Ibid.

243 Interview CAN30.

244 Alboim, N. and Cohl, K., 2021, 'Expanding Refugee Pathways to Canada: Strategies for welcoming Afghan and other refugees'.

245 Interview CAN32.

To address the more acute challenges such as housing in rural communities, the Government of Canada invested $35 million in January of 2022 to provide access to essential services for individuals arriving in RNIP communities, which may contribute to creating more adequate housing conditions.[246]

The current solution identified by multiple interviewees as most promising consists in employers hiring refugee workers through the EMPP providing the upfront investment to address vulnerabilities that may arise from housing challenges and resettlement costs.[247] Some employers provided their newly hired refugees with an advance on their wages.[248] An EMPP participant recounted that their employer provided them with two months of housing cost-free when they arrived before they moved to a long term housing solution, in addition to providing them with a car.[249] The positive impact of such employer efforts led one interviewee to recommend that all employers hiring refugees under Phase 2 of the EMPP to provide a minimum of four weeks of temporary housing upon their arrival to provide a window of time allowing candidates to find suitable housing.[250] The newly established access to loans for EMPP participants could also contribute to address housing challenges.[251]

During the first and second phases of the program, members of the Canadian government, UNHCR, and settlement NGOs checked in regularly with both employers and employees to ensure their continued progress, at both six-month and yearly intervals.[252] NGO partners play a key role in delivering the manifold aspects of integration support, ranging from help

246 Government of Canada, 2022, 'Expanding the benefits of immigration in rural and northern communities'.

247 Interview CAN29; Interview CAN32.

248 Interview CAN29.

249 Interview CAN34.

250 Interview CAN32.

251 Interview CAN29.

252 Interview CAN5; Interview CAN32.

buying food and furniture to help applying for a social insurance card and addressing any possible mental health needs.[253]

The nature of the monitoring and support that participants require can vary greatly based on the context in which EMPP participants are living, with those in smaller communities and rural areas potentially needing greater support from NGO partners. Indeed, as one interviewee explained, "it's important for us to know what we are doing well so that we can continue doing that and where are the gaps, where can we improve [...] Because we know that it's not perfect. We know that some have challenges more than others, depending on where the candidate is based".[254]

Yet, the ad hoc nature of EMPP monitoring risks missing the emergence of sources of vulnerability. Anecdotally, an individual participating in the EMPP lost their job due to the onset of the COVID-19 pandemic, and although they were able to secure a new job independently, more frequent monitoring could identify potential needs for support both with the process of applying to new jobs and with the challenges that can arise during periods of unemployment.[255] Overall, more formalized, regular, and institutional monitoring systems would help to ensure that individuals admitted through the EMPP do not face such sources of vulnerability.

5.3. Right to work

The EMPP's focus is on creating opportunities for refugees to access to existing economic migration pathways, yet more data from subsequent phases of implementation is needed to evaluate the EMPP from the perspective of access to 'decent work'. All participants in the program arrive in Canada with a secured job position that matches their skill profiles. The EMPP achieves in this way its core objective of enabling refugees' access to existing economic migration channels. Given their status as permanent residents, the right of EMPP

253 Interview CAN32.

254 Interview CAN32.

255 Interview CAN5.

participants to remain in Canada is not contingent on the duration of their job. Furthermore, they are not tied to a specific employer or occupation.[256]

All EMPP participants benefit from the employment-related support already in place for other economic migrants. Yet, more time and evidence are needed to assess the ability of these existing support services to adequately address the specific labour market needs of refugees, and to test the potential of the previously described community-driven and sector-driven models of support.

It is worth mentioning here that Objective 18 in the UN Global Compact on Migration calls for enhancing "the ability of migrant workers to transition from one job or employer to another by making available documentation that recognises skills acquired on the job or through training in order to optimise the benefits of upskilling".[257] While this research cannot predict current EMPP participants' future trajectories in the Canadian labour market, it has identified promising ideas arising that could be expanded to benefit all future EMPP participants.

The first promising practice to support refugee workers' upward mobility is their potential to work towards business ownership. Employers looking to sell their business could envision hiring EMPP participants so that they can first gain experience working in their team, before eventually selling the business.[258] Such a strategy would have a pronounced benefit for aging and rural communities such as those where the RNIP is operating. In those contexts, employers may be looking to retire but may be reticent to do so without first securing the future of the business they dedicated their life to building. A similar practice highlighted by an interviewee is referred to as "hiring for potential": this implies first hiring EMPP candidates in entry or midlevel positions, with a clear promotion path in place for higher level positions once candidates become accustomed to the Canadian labour market and gain experience with company practices.[259]

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256 Interview CAN14.

257 United Nations, 2018. 'The Global Compact for Safe, Orderly and Regular Migration', (A/RES/73/195).

258 Interview CAN32.

259 Ibid.

For occupations that require official credentials such as a nursing license or commercial driver's license, upskilling on the job while acclimating to the new work environment also shows promise.[260] Anecdotally, one EMPP participant completed cybersecurity training course and now plans to work in the field.[261]

Finally, the EMPP's priorities of ensuring adequate labour market access and decent work must also extend to the families of admitted candidates. Multiple interviews discussed the needs of the spouses of resettled individuals, indicating that the lower English language abilities and childcare responsibilities of some EMPP participants' spouses posed obstacles to their community integration and ability to access the Canadian labour market.[262] Providing wraparound support to EMPP participants means that their spouses should not only benefit from full labour market access, but also from vocational and linguistic training courses to support their right to work.

260 Interview CAN29.

261 Interview CAN30.

262 Interview CAN32.; Interview CAN30; Interview CAN38.

6. Cross-cutting policy and legal issues

Both the PSR program and EMPP are, to different degrees, key elements of Canada's contribution towards increasing the availability and predictability of complementary pathways of admission called for in the GCR. Significantly, those two instruments have been at the core of international initiatives launched by the Canadian government to promote and test the feasibility of adopting similar initiatives in other countries.

The fact that the PSR program and the EMPP are both listed as 'complementary pathways' should not lead to underestimate the diversity of the two programs in terms of their origins, objectives and, crucially, their impact on the level of refugee admissions in Canada.

The PSR program precedes the 'language' of complementary pathways and has always been conceived as a structural component of Canada's refugee resettlement system. It is a long-lasting and consolidated initiative which has allowed the successful resettlement of more than three hundred thousand refugees over the past forty years. Substantial evidence is available on the program implementation, while a growing academic literature is looking at Canada's private sponsorship model from a multi-disciplinary perspective, examining its social, institutional and legal features.[263]

In comparison, the EMPP is a recently launched initiative, which has just moved beyond its pilot phase. Only a small group of refugees (15 people in total) were admitted under phase one of the project, while Government of Canada announced the objective of resettling a total of 2,000 refugees under the next phase of the project, currently ongoing. At this stage, limited evidence is available on its operation. The EMPP nascent status implies that is currently difficult to predict its 'scalability', and its potential to become a structural component of Canada's refugee admission model.

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[263] See, among others, Shauna Labman and Geoffrey Cameron (eds.), *Strangers to Neighbours. Refugee Sponsorship in Context*, Montreal & Kingston: McGill-Queen's, 2020; Leah Hamilton, Luisa Veronis and Margaret Walton-Roberts, *A National Project. Syrian Refugee Resettlement in Canada*, Montreal: McGill-Queen's University Press, 2020; Geoffrey Cameron, *Send Them Here: Religion, Politics, and Refugee Resettlement in North America*, McGill-Queen's University Press, 2021; Jennifer Hyndman, William Payne, & Shauna Jimenez, 'The State of Private Refugee Sponsorship in Canada: Trends, Issues, and Impacts', RRN/CRS Policy Brief, 2017, https://refugeeresearch.net/wp-content/uploads/2017/02/hyndman_feb%e2%80%9917.pdf

This Report has examined the PSR program and EMPP by focusing on the three main dimensions: selection process and eligibility criteria; refugee vulnerability; and refugee access to decent work. The analysis allowed to identify a set of cross-cutting normative and policy issues stemming from the design and implementation of those two instruments that are further explored in this final section. We argue that addressing those issues is key to ensure the sustainability and protection rationale of both the PSR program and the EMPP, especially in light of their foreseen expansion in Canada and their potential transfer to other countries.

The issue of *additionality* is necessarily the starting point of discussions on the role of complementary pathways within Canada's refugee admission system. Since the inception of the PSR program four decades ago, private sponsors have framed their contribution to Canada's resettlement efforts as additional (e.g., above and beyond) the number of UNHCR-referred resettlement places supported by the state.[264]

The extent to which the principle of additionality is endorsed on the same terms by the Canadian government, however, is less clear, both in theory and practice. Back in 2016, in an evaluation of Canada's resettlement system carried out by IRCC, it was explicitly noted that 'additionality is not part of the PSR program theory'.[265] This approach is reflected in admission levels over the last few years, with PSR admissions nearly doubling those of refugees arriving with government support. In the current context, reasserting the principle of additionality is key to avoid that an expansion of complementary pathways come at the expense of government continued efforts to resettle refugees in line with its international commitments.

In parallel, this Report underlines the need to move beyond a narrow conceptualisation of the respective roles of public and private actors for refugee admission that focuses merely on the level of admissions. Instead, achieving to the full the promise of 'complementarity'

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[264] Canadian Council for Refugees, 'Private Sponsorship of Refugees, Our vision: a broad, inclusive and effective refugee resettlement program', https://ccrweb.ca/en/private-sponsorship-refugees

[265] In particular, the Reports states that: 'Although the principle of additionality is not part of the PSR program theory, private sponsors felt that the PSR program was contradicting the principle of additionality'. See Government of Canada, 'Evaluation of the Resettlement Programs (GAR, PSR, BVOR and RAP)', Final Report, July 2016, https://www.canada.ca/en/immigration-refugees-citizenship/corporate/reports-statistics/evaluations/resettlement-programs.html

implies seeking an optimal division of responsibilities between private actors and the state that guarantees the highest quality of protection for the largest number of people in need.

The proposed conceptual lens requires, as a first step, to depart from the traditional understanding of both resettlement and complementary pathways as purely discretionary practices on the side of the state, which happen in a context where the rule of law is necessarily 'thin'.[266] This assumed discretionary nature of refugee admission practices is often contrasted with the legal obligations undertaken by states towards refugees arriving spontaneously at their territories, which are anchored in the respect of the legally-binding principle of *non-refoulement*. In the Canadian context, this distinction is reflected in the asymmetry between Canada's in land asylum determination system, which is based on a quasi-judicial framework, and the overseas admission system which operates as an administrative process.[267]

A static distinction between the level of procedural fairness and equity underpinning the inland refugee system and the one characterising the overseas admission system disregards the increasingly relevant role assigned to 'third country solutions' as a key component of the international protection regime, as reflected in the GCR framework. It does not even consider relevant developments in international refugee and human rights law, notably those concerning the extraterritorial application of human rights treaties, which may hold important implications for the design and implementation of states' refugee admission practices.[268] Crucially, evidence submitted from refugee advocates and NGOs points to the negative impact on protection needs caused by excessive discretion and lack of accountability of decision-makers responsive for refugee admission decisions.[269]

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[266] Thériault, 'Settling the Law', p. 356.

[267] This dichotomy has been confirmed by jurisprudence of Canada's Federal Court, which posited that asylum seekers who apply within the country are entitled to a higher level of procedural rights to that to be accorded to refugees lodging an application for resettlement at Canada's overseas offices. See Labman, 'Crossing Law's border', pp. 66-76.

[268] Audrey Macklin, 'Asylum and the Rule of Law in Canada: Hearing the Other (Side)', in S. Kneebone (ED.), Refugees, *Asylum Seekers and the Rule of Law: Comparative Perspectives.* Cambridge: Cambridge University Press, 2009, p. 105.

[269] See for example, Canada Council for Refugees, 'Concerns with Refugee Decision-Making at Cairo', 31 January 2010, https://ccrweb.ca/en/concerns-refugee-decision-making-cairo-0

The analysis conducted in this Report underlines the need to gradually strengthen the level of procedural guarantees and access to justice in the overseas system, using as a benchmark the key legal safeguards that have been built into the in-land asylum system.

The proposed focus on 'access to rights', and on establishing the conditions so that individuals can enjoy the rights formally granted to them by law, is crucial to address what has been referred to by scholars as *structural vulnerability*.[270] Working to reduce the causes that perpetuate structural vulnerability means, for example, removing the barriers that prevent applicants facing specific vulnerabilities (e.g. mental health issues or other disabilities) from accessing and navigating complex admission procedures.

Addressing structural vulnerability further implies reducing the dependency of refugees from state support or from the support provided by their sponsors, with a view to fostering their *agency* and ability to take autonomous decisions. This need is not limited to the admission stage but extend to the post arrival phase, and specifically to the range of relations that refugees entertain with both private and public actors responsible for providing settlement support.

Moving from the above assumptions, this Report identifies the following cross-cutting issues to be considered with a view to increasing compliance of Canada's 'complementary pathways' instruments with fundamental rights and protection standards and fulfil the ambitious call to significantly expand their availability (and quality) laid down in the GCR:

1. Equitable access
2. Access to justice and procedural fairness
3. Settlement support and the role of refugee agency

The relevance of these issues stems directly from the analysis of the PSR program and the EMPP conducted in this Report. Indeed, it is suggested that developing the two instruments along the three dimensions identified above would substantially contribute to reduce structural vulnerability and limit the impact of the 'exclusionary features' that, as

[270] See Section 3 above.

recognised by scholars, are to different degrees are at play in the design and practical implementation of 'mobility' instruments for refugees.[271]

6.1. Equitable access

The criteria and requirements that refugee applicants and their sponsors need to fulfil throughout the application and selection process have been a recurring source of tension between the Canadian government and the sponsor community. On several occasions, sponsors have complained about long processing times, huge variations in outcomes for people from the same nationality depending on the country of application, as well as documented episodes of poor-decision making by overseas visa officers.[272]

The requirement to provide proof of positive refugee status determination for applicants sponsored by Group of Fives and Community Sponsors, introduced in 2012, has also been a source of contention. This regulatory change implied that it has since become extremely difficult for smaller groups to sponsor refugees living in countries that do not have in place a formal RSD system or where UNHCR is not entrusted with carrying out RSD procedures.

It is interesting to note in this regard how the Government of Canada indirectly recognised the above challenge when setting the eligibility criteria for participation in the EMPP phase two. Applicants qualify for admission to that program not only if they can show proof of positive RSD but also if they hold a valid registration document (as asylum seekers) from UNHCR or if they are in possession of a 'person of concern letter' issued by UNHCR.[273] Revising eligibility criteria of Group of Five sponsorships along the same line would contribute to mitigating the hurdles faced by many potential applicants as a consequence of the impossibility of acquiring RSD documentation in their country of residence.

The analysis pointed to refugee agency as key to ensure the sustainability of the two programs. The design of admission procedures should rely on individual initiative and not stifle it with excessive bureaucracy and red tape. As underlined by one interviewee, the

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271 See Carrera, Vosyliute, Brumat, Feith Tan, 'Implementing the United Nations Global Compact on Refugees?', p. 2.

272 For an extensive overview see Thériault, 'Settling the Law', Ch. 5.

273 See Section 5.1. above.

expected final stage in the EMPP development would be creating the conditions for individuals to autonomously access the program; for example, by giving them the possibility to apply even if residing outside one of the few countries where non-governmental organisations entrusted with implementing the EMPP are currently operating.[274]

Looking beyond formal eligibility criteria, this Report underlines how the issue of equitable access cannot be comprehensively addressed without reflecting on the selection principles underpinning the two instruments. The ongoing expansion of the PSR program (and the more limited expansion of the EMPP) calls for widening the scope of potential beneficiaries, limiting distortions in access resulting from the specificities of their selection dynamics.

The PSR program relies heavily on the principle of 'naming'. 'Naming' has been one of the founding principles of Canadian private sponsorship model and, for many of the stakeholders involved, a key component for ensuring constant engagement of the Canadian public in the program. 'Naming' has gone hand in hand with a selection dynamic referred to in the Canadian context as the 'echo effect', that is the demand from previously admitted refugees to sponsor extended family members left behind abroad. This dynamic has profoundly shaped selection practices within the PSR program. It is widely acknowledged that, as a result of the echo effect, the PSR program has become a privileged channel for reuniting with extended family members or with people sharing the same ethnic or national background.

Ensuing reunification of sponsors with their (extended) family members in need of protection is a legitimate and important aim of a refugee admission program. As noted by the Canadian Council for Refugees, 'naming' is an important tool in the hands of private citizens to "responds to situations around the world and to refugees who have been forgotten or who do not fit the priorities of governments or the UN'.[275] Crucially, family

[274] Interview CAN430.

[275] Canadian Council for Refugees, 'Renewing Canada's Private Sponsorship of Refugees Program' 2016, http://ccrweb.ca/en/renewing-private-sponsorship-refugees-program

reunification plays a key role in achieving successful inclusion of newcomers within the Canadian society.[276]

At the same time, 'naming' based on family related considerations raises a number of issues. First, it inevitably diverts the focus of the program away from protection needs and vulnerability, which are key considerations of UNHCR resettlement criteria. With regard to equitable access, the predominant focus on 'privileged connections' of the current system makes access to the program dependent on individual links with people in Canada and, crucially, on the availability of the financial resources needed for undertaking the sponsorship commitment.

Over the years, the Canadian government, in collaboration with a range of civil society organisations, has developed a number of sub-programs within the PSR stream that engage private sponsors in supporting vulnerable individuals referred by UNHCR or Canadian authorities. Those programs, and most notably the BVOR program, have so far represented only a small share of the overall sponsorship intake. One of the reasons that explain sponsors' reluctance to engage with these formulas on a large scale is precisely the withdrawal of the possibility to 'name' specific refugees for sponsorship.[277]

These previous experiences support the conclusion that sponsors' tendency to privilege family-related connections over 'unknown' refugees will not be substantially altered without expanding existing avenues for family reunification. This aim could be achieved by establishing a tailored family reunification program for refugees – with a separate and additional allocation of spaces – based on an extended definition of family compared to the one foreseen under the family class provisions of the IRPA (for example, covering siblings, adult children, nephews and nieces).[278]

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276 '"Naming" Refugees in the Canadian Private Sponsorship of Refugees Program', p. 50.

277 See Section 4.2. above.

278 Labman 'Crossing law's border', p. 166; Naomi Alboim and Karen Cohl, 'Canada needs a unified approach for people fleeing Ukraine and Afghanistan', The Globe and Mail, 4 April 2022, https://www.theglobeandmail.com/opinion/article-canada-needs-a-unified-approach-for-people-fleeing-ukraine-and/; Ahmad Ali, 'Towards a Unified model of Refugee Resettlement', p. 6; Interview CAN15, CAN20.

A similar bold move would be required to expand the scope of potential beneficiaries of the EMPP.[279] In its current scope, the EMPP is only linked to a small set of permanent economic pathways. The vast majority of skilled workers admitted to Canada every year, however, first arrive on temporary work permits. The latter often represent the only viable option for employers due to the longer and more complex application processes that characterise permanent pathways. The EMPP's focus on permanent pathways cuts off from access to the program a wide range of potential beneficiaries whose profiles would be competitive for employers if allowed entry through temporary permits. [280]

One option to further unlock displaced people labour market potential and ensure equitable access would thus be allowing EMPP beneficiaries to arrive through temporary labour pathways. In its own evaluation of Canadian economic immigration policy, the OECD recommends "[…] considering a provincial temporary foreign worker pilot programme, to allow provincial and territorial governments to better respond to regional cyclical or seasonal labour needs that are not otherwise met, without the need to resort to permanent migration through provincial nomination".[281] If adopted, such a program may align with the needs of those EMPP participants whose skills better fit temporary migration pathways. [282]

Ensuring access of EMPP beneficiaries through temporary work permits would require granting those individuals a set of administrative waivers to existing requirements for obtaining temporary residence, most notably and exemption from the requirement to demonstrate an 'intent to leave', which would obviously be an unreasonable condition to

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279 Interview CAN13, CAN20.

280 Rui Chen, Dana Wagner and Veronica Wilson, "Recommendations for deepening access to Canada's skilled immigration pathways for displaced talent using the Economic Mobility Pathways Pilot," TalentLift working paper, November 2021, https://www.talentlift.ca/resources/impact-policy/

281 OECD, 2019, 'Recruiting Immigrant Workers: Canada 2019', https://www.oecd.org/publications/recruiting-immigrant-workers-canada-2019-4abab00d-en.htm

282 Among foreign workers who came to Canada through temporary migration pathways in 2017, 33% worked in combined crop production and animal production, and a further 10% worked in the domestic sector, both skill areas that permanent migration pathways struggle to adequately accommodate. See Lu, Y., 2020, 'The distribution of temporary foreign workers across industries in Canada'.

apply in the case of refugees.[283] In addition, admission of refugees with temporary labour permits would need to be accompanied by a well-defined transition plan to permanent residence, possibly by means of an accelerated process.

Another option worth exploring would be to build on the EMPP experience to facilitate the admission of refugee workers as permanent residents by expanding permanent residence options for professional profiles not adequately covered by existing permanent residence streams.[284] As proposed by some experts, a new permanent pathway specifically designed for agricultural workers could build on the EMPP model to allow for the entry and successful settlement of clusters of refugees as agricultural workers in rural areas.[285]

A final way of expanding EMPP participation identified by interviewees was scaling up the newly unveiled 'trusted partner' model. This model would potentially remove a set of eligibility barriers for candidates identified by 'trusted partner' organisations, allowing processing times to be significantly expedited and preventing organisations' resources from being expended on applications that do not result in candidates' eventual admission. On an institutional level, this expanded 'trusted partner' model could operate in a very similar way to the designation of organisations in the existing Start-up Visa Program.[286] Establishing a "self-sustaining" trusted partner model would, according to an interviewee, "[…] yield great results and actually bring us closer to the goals that we've set out for

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283 To apply for a temporary residence visa foreign nationals must demonstrate their intent to leave Canada by the end of their authorized stay. See Rui Chen, Dana Wagner and Veronica Wilson, 'Recommendations for deepening access to Canada's skilled immigration pathways for displaced talent using the Economic Mobility Pathways Pilot', TalentLift working paper, November 2021, https://www.talentlift.ca/resources/impact-policy/

284 This would include professional profiles falling under the categories of Canada's National Occupational Classification (NOC) categories C and D. See Government of Canada, National Occupation Classification 2021, https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/express-entry/eligibility/find-national-occupation-code.html

285 Naomi Alboim, Karen Cohl, 'More agricultural workers should become permanent residents', Policy Options, 26 October 2020, https://policyoptions.irpp.org/fr/magazines/october-2020/more-agricultural-workers-should-become-permanent-residents/

286 Government of Canada, 2022, 'Designated organizations for the Start-up Visa Program: Get the designation'. https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/start-visa/participate/designation.html

ourselves here in Canada".[287] Depending on the level of institutional support and accountability mechanisms that will be established, some interviewees envisioned that the system could expand to the point at which 'trusted partners' could even independently assess candidates' eligibility for international protection in first countries of asylum.[288]

When discussing equitable access, a specific consideration deserves the role that complementary pathways (should) play in addressing so-called large-scale displacement situations. As underlined by the Canadian SAHs Association, stark differences exist in the way Government of Canada has addressed recent large-scale displacement situations (e.g., the cases of Syria in 2015, Afghanistan in 2021 and Ukraine in 2022). While allegedly influenced by a range of legitimate political and operational considerations, these differences in response are hardly justifiable from a protection and non-discrimination perspective.[289] As called for by refugee advocates and academics, Canada needs a common and structured approach to large scale displacement situations, with a predictable and robust role for complementary pathways, including private sponsorship and labour pathways such as the EMPP.

6.2. Procedural fairness and access to justice

Calls for increased procedural fairness and access to justice in the admission process of resettlement and complementary pathways have been generally downplayed by referring to the voluntary and discretionary nature of those practices. This is in spite of the fact that refugee advocates have for a long time denounced the negative protection impact of low-quality decision-making procedures for assessing eligibility of refugee applicants and the lack of appeal venues to remedy potential mistakes.

Key procedural rights that are considered as essential components of in-land asylum procedures, are severely limited or even non-existent in the context of overseas refugee

[287] Interview CAN32.

[288] Interview CAN30.

[289] Canadian Large-Scale Emergency Refugee Response Framework, Submission of The Canadian Refugee Sponsorship Agreement Holders Association (document provided to the authors).

admission instruments. Among these are the right to information, the right to legal assistance, as well as access to effective judicial and non-judicial remedies.

As an example, Canadian visa officers responsible for refugee admission retain wide discretion when assessing a request for reconsideration of a negative decision advanced by an applicant. When refusing an application, visa officers often issue 'boilerplate' explanations in their refusal letters, making it difficult for applicants (and their sponsors) to understand the reasons why their application was rejected.[290] To this should be added the limited possibilities for seeking judicial review of visa officers' decisions. The only legal avenue currently available for applicants who consider their request had been wrongly adjudicated is appealing to Canada's Federal Court of Justice. However, access to this venue is severely hampered by a range of legal, informational, and financial barriers.[291]

While extending to the overseas admission system the same set of procedural guarantees that have been built into Canada's in-land system may not be feasible, interviewees suggested several measures that could address some of the flaws affecting the current system. In the short term, these include reinforcing visa officers training on international protection and refugee law, including on issues such as vulnerability and gender-based claims. Other changes would require increasing internal oversight of visa officers' work as well as establishing a duty to issue more detailed information on the reasons for rejecting an application. Additional efforts should also be made to increase the overall transparency of the eligibility determination process, for example by introducing audio recording of interviews.[292]

With specific regard to the judicial review process, more efforts should be made to ensure that rejected applicants are aware of how to challenge a negative decision, for example by providing clear and easy-to-understand instructions on how to initiate judicial review. Canadian legislators should also consider abandoning or reforming the 'leave requirement' for starting judicial review of visa officers' admission decisions before Canada's Federal

[290] Interview CAN4-21.

[291] See Section 4.1 above.

[292] Interview CAN4-16, CAN4-21.

Court. Existing evidence shows that the leave requirement has in fact represented a substantial barrier towards access to justice for rejected overseas refugee applicants.[293]

Ensuring access to justice is not limited to the application stage but extend to the settlement process and the range of interactions that newcomers establish with both state agencies and private actors entrusted with providing support. A recent Audit carried out by the Government of Canada has pointed to a set of integrity concerns in the implementation of the PSR program, including cases of inadequate support or even fraudulent behaviour by some sponsor groups.[294] This evidence reinforces the call for establishing a structured monitoring framework to ensure oversight of all the actors involved.

In recent years, in response to reports of misconduct, Government of Canada has developed a proactive tool called 'routine monitoring', which foresees telephone interviews with randomly selected group of refugees to check that adequate supports are being provided. Canadian authorities should further consider how to increase the accessibility, visibility and effectiveness of existing mechanisms enabling refugees to report any misconduct or abuse from actors entrusted with providing settlement support.[295]

As underlined by several interviewed stakeholders, a key future challenge to be dealt with by Canadian authorities will be to strengthen accountability and reporting requirements of sponsors during the settlement process and support provision, while keeping the costs and level of complexity at a manageable level, in order to avoid the risk of losing sponsors' commitment to the program.[296]

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[293] Thériault, 'Settling the Law', p. 350.

[294] See Section 4.2 above.

[295] See Refugee Sponsorship Training Programme 'What Should You Do If You Are Being Mistreated, Exploited Or Abused?', https://www.rstp.ca/en/your-rights-as-a-privately-sponsored-refugee/mistreated-exploited-abused/ (last accessed 17 November 2022); Immigration, Refugees and Citizenship Canada (IRCC), 'Private Sponsorship of Refugees Program: Post-arrival Assurance Activities', https://www.rstp.ca/wp-content/uploads/2021/04/PSR-Post-Arrival-Assurance-Activities-March-2021.pdf

[296] Interview CAN4-24, CAN4-25.

The above discussion relies to a large extent on evidence gathered in the context of the PSR program; many of the previous recommendations, however, are likely to be relevant for the EMPP as well, as the pilot proceeds through implementation of its second phase and, even more so, in view of its possible future expansion. NGOs involved in the implementation EMPP's phase two have already started developing their own internal monitoring process on an ad hoc basis, for example by conducting regular check ins with both candidates and their employers and activating their own data collection processes.[297]

What is currently missing, however, is a comprehensive and harmonised monitoring and evaluation framework covering all steps of the program implementation. Addressing this shortcoming is particularly important given that, as clearly indicated in this Report, refugees arriving as economic migrants have less settlement supports available for them and their family members than other categories of refugees. This circumstance may create gaps in support and, potentially, situations of vulnerability that need to be identified early on in order to provide adequate responses.

6.3. Settlement support and the role of refugee agency

Privately sponsored refugees can rely on the personalised support provided by their sponsors for addressing any specific issue they may face upon arrival. Sponsors act as intermediaries between newcomers and state services; for example, they are responsible for aspects such as registering them in the public health system or arranging a medical appointment. Crucially, sponsors are expected to provide psychosocial support to refugees, helping them coping with the stress and traumatic experience associated with displacement.

Sponsors also play a key role both in ensuring that refugees have effective access to rights to which they are entitled by law and fostering their self-sufficiency. In the area of labour market integration, sponsors can proactively deploy their own networks and expertise to identify suitable job offers and facilitate job searching. In parallel, privately sponsored refugees have access to a suite of employment-related services provided by settlement provider organisations.

[297] Interview CAN432.

The situation is significantly different for EMPP beneficiaries. Given that they arrive in Canada as economic immigrants, they cannot rely on the tailor-made supports and personal care provided by sponsors during their first year of stay. However, evidence from implementation of the EMPP in some specific provinces, shows that promising practices are being developed through cooperation between municipalities, employers, local sponsor organisations to provide targeted settlement support to EMPP beneficiaries.[298]

A plurality of interviewees familiar with the first two phases of EMPP implementation indicated that the notion of *cluster hiring* offers great potential to ensure high standards of integration and settlement support by maximizing the use of institutional resources.[299]

The core idea behind cluster hiring is to "work with either a large employer or a group of employers in a particular community to bring clusters of refugees from the same world area as a group to a specific local community".[300] By allowing the resources mobilized by both community organisations and employers to target a cluster of refugee workers rather than being diluted between numerous individuals' locations, cluster hiring would be instrumental in maximising the potential of the community-driven model and the sector-driven model currently being tested under EMPP phase two.

Cluster hiring could allow capitalising on the varying strengths of individuals hired in the same cohort, with the potential for individuals with stronger linguistic skills to support their fellow refugee workers by acting as an interlocutor with employers' Human Resources and managerial staff. Further potential exists for cluster hiring to engender a multiplier effect related to EMPP participants' access to resources, with individuals' sharing advice on how to access institutional and community support for different challenges they might face.[301] Interviewees indicated that such benefits could be higher in smaller and rural communities in Canada that face more acute labour shortages.[302]

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298 Interview CAN414.

299 Interview CAN20; Interview CAN29; Interview CAN34.

300 Interview CAN20.

301 Ibid.

302 Interview CAN20.

The experience of the PSR program and the EMPP underlines the need to achieve increased collaboration between private actors and state-funded service provider organisations. It needs to be underlined in this regard how the relation between private sponsors and settlement agencies has not always been harmonious. Knowledge gaps, tensions over their respective roles and, sometimes, even mutual suspicious have at a times resulted in shortcomings in the level of support provided. Increasing awareness of these gaps has set the ground for collaborative projects aimed at exploring how private sponsors and the formal settlement sector can work together in a more effective ways to address emerging challenges.[303]

Creating the conditions for a more integrated model of settlement support has many potential advantages. It would allow complementing the benefits resulting from the personalised support provided by sponsors or other private actors (such as employers or volunteering organisations) with the expertise and knowledge of settlement workers on the range of resources or services available to newcomers. A more regular interaction between newcomers and service provider organisations could also contribute to reduce cases of over-dependence on sponsors, which may end up limiting refugees' autonomy when it comes to pursuing their educational and professional choices.

[303] See 'Intentional Connections for Welcoming Communities Improving Settlement for Privately Sponsored Refugees in Ontario through Settlement-Sponsor Collaboration', https://ocasi.org/sites/default/files/ari-final-report-2021-intentional-connections_0.pdf

7. Conclusions

The study of the PSR program and the EMPP carried out in this Report pointed to a set of challenges and trade-offs that currently confront Canadian policymakers and other key stakeholders involved in the design of complementary pathways. These reflect a set of underlying tensions and divergent views concerning the respective role and responsibilities of public authorities and private actors for delivering protection to refugees.

Recognising these challenges does not in any case diminish the merits and positive features of the Canadian PSR program and the EMPP. It however underlines how addressing such challenges will be key for ensuring the sustainability and protection-oriented nature of these programs. It also means that governments in Europe or elsewhere will likely need to confront the same issues when starting or further developing their own private sponsorship or refugee-specific labour programs.

The Canadian initiatives discussed in this Report point to unquestionable evidence. Public involvement in supporting refugees, driven by both humanitarianism and solidarity with those confronted with the plight of forced displacement, can be successfully mobilised to the benefit of a large number of people in need. Concurrently, the Canadian experience shows how public involvement in welcoming refugees can contribute to foster a more humane approach towards refugees and increase the acceptance of cultural, social, and religious diversity within receiving societies. It is the responsibility of policy makers and other stakeholders to sustain this positive force for good by devising policy and legal frameworks that ensure long-term sustainability and guarantee full respect of international refugee protection and human rights standards.

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Appendix I: List of interviews with stakeholders

The following categorisation system clarifies the institutional role and/or personal experience of interviewees involved in the implementation of the PSR and EMPP instruments, while maintaining their anonymity. Among the following categorisations terms, parentheticals provide examples of which types of organisations fit into these categories for the purposes of this report, where added clarification is beneficial:

- International Organisation (IO) representative (United Nations Agencies, Multilateral Migration Dialogues);
- Canadian Government Representative;
- Civil Society Organisation (Non-profit and charitable organisations, immigrant service provider organisations, advocacy groups, professional associations);
- Refugee-led Organisation;
- PSR Sponsorship Agreement Holder (SAH);
- Service Provider Organisation (SPO);
- EMPP Partner NGO;
- Academic Expert.

No.	Interview Code	Organisation	Place	Date
1	CAN1	International Organisation (IO) representative	Online	08.04.2021
2	CAN2	Civil Society Organisation	Online	15.04.2021
3	CAN3	International Organisation (IO) representative	Online	19.04.2021
4	CAN4	Canadian Government Representative	Online	28.04.2021
5	CAN5	International Organisation (IO) representative	Online	29.04.2021
6	CAN6	Civil Society Organisation	Online	12.05.2021
7	CAN7	International Organisation (IO) representative	Online	04.06.2021

8	CAN8	Civil Society Organisation	Online	04.06.2021
9	CAN9	Canadian Government Representative	Online	04.06.2021
10	CAN10	Civil Society Organisation	Online	15.06.2021
11	CAN11	Civil Society Organisation	Online	16.06.2021
12	CAN12	Refugee-led Organisation; EMPP Partner NGO	Online	30.03.2021
13	CAN13	EMPP Partner NGO	Online	27.05.2021
14	CAN14	Civil Society Organisation	Online	21.06.2021
15	CAN15	PSR Sponsorship Agreement Holder (SAH)	Online	5.11-2021
16	CAN16	Academic Expert	Online	10.11.2021
17	CAN17	Canadian Government Representative	Online	17.11.2021
18	CAN18	Canadian Government Representative	Online	17.11.2021
19	CAN19	Academic Expert	Online	20.04.2022
20	CAN20	Academic Expert	Online	21.04.2022
21	CAN21	Academic Expert	Online	27.04.2022
22	CAN22	PSR Sponsorship Agreement Holder (SAH)	Online	2.05.2022
23	CAN23	Academic Expert	Online	5.05.2022
24	CAN24	PSR Sponsorship Agreement Holder (SAH)	Online	10.05.2022
25	CAN25	PSR Sponsorship Agreement Holder (SAH)	Online	10.05.2022
26	CAN26	PSR Sponsorship Agreement Holder (SAH)	Online	11.05.2022
27	CAN27	Refugee-led organisation	Online	20.05.2022
28	CAN28	EMPP Partner NGO	Online	25.05.2022
29	CAN29	International Organisation (IO) representative	Online	31.05.2022

30	CAN30	EMPP Partner NGO	Online	7.06.2022
31	CAN31	Civil Society Organisation	Online	10.06.2022
32	CAN32	Refugee-led organisation; EMPP Partner NGO	Online	18.07.2022

Appendix II: List of interviews with beneficiaries of protection

No.	Interview Code	Country of Nationality	Instrument	Place	Date
33	CAN33	Syria	PSR	Online	23.06.2022
34	CAN34	Syria	EMPP	Online	31.08.2022
35	CAN35	Syria	PSR	Online	8.09.2022
36	CAN36	Afghanistan	GAR	Online	17.09.2022
37	CAN37	Afghanistan	PSR	Online	17.09.2022
38	CAN38	Afghanistan	GAR	Online	17.09.2022
39	CAN39	Afghanistan	PSR	Online	17.09.2022
40	CAN40	Afghanistan	PSR	Online	17.09.2022
41	CAN41	Afghanistan	PSR	Online	17.09.2022
42	CAN42	Afghanistan	PSR	Online	17.09.2022
43	CAN43	Afghanistan	PSR	Online	17.09.2022
44	CAN44	Afghanistan	PSR	Online	17.09.2023

Appendix III: Specificities of Canadian Permanent Economic Migration Pathways linked to the EMPP

Name of the program	Level of government	Targeted skills profiles	Selected eligibility requirements[304]
Express Entry system (encompassing the Federal Skilled Worker program, the Federal Skilled Trades program, and the Canadian Experience Class program)	Federal	• Skilled workers who have Canadian work experience. • Skilled workers with foreign work experience. • Skilled workers who are qualified in a skilled trade.	• Work experience (at least 1 year of continuous work, either within Canada during the last 3 years, or in the same type of job within the last 10 years outside of Canada). • Work experience or skills in qualifying National Occupation Classification (NOC) codes / Training, Education, Experience and Responsibilities (TEER) categories. • Education required for the Federal Skilled Worker Program (certificate, diploma or degree from Canadian institutions, or an Educational Credential Assessment (ECA) if foreign education for immigration purposes).

[304] The Table includes eligibility requirements of selected permanent labour pathways that may restrict potential access of refugee workers with diverse experiences and skill profiles. Under each requirement listed in column four, the Table also refers to facilitations that have been introduced under the EMPP framework to address the specific circumstances of refugee workers. For additional details see Section 5.1 above.

			• Completion of an English language test meeting the Canadian Language Benchmarks (CLB). • Proof of sufficient settlement funds. • Job offer required for the Canadian Experience Class program.
Provincial Nominee Programs (PNP)	Provincial	The requirements for receiving a provincial nomination differ for each province, but broadly target: • Workers already working within the target province. • Workers in specific skilled and semi-skilled sectors designated as desirable, varying by province (i.e., healthcare professionals, engineers, technicians, and those working in the tech sector). • Students and recent graduates from education institutions within the target province. • Businesspeople looking to found or buy businesses in the target province.	• Work experience or skills in qualifying specific 'in-demand' National Occupation Classification (NOC) codes / Training, Education, Experience and Responsibilities (TEER) categories, depending on each PNP program's designations. • Completion of an English language test meeting the Canadian Language Benchmarks (CLB). • Employer attestation of applicants' ability to independently support themselves and their family members based on the salary provided, for some PNP pathways. • Proof of sufficient settlement funds (with loans available for EMPP participants). • Personal net worth of between CA$300,000 – CA$600,000, for Entrepreneur Class PNP applicants.

Atlantic Immigration Pilot (AIP), encompassing the Atlantic International Graduate Program (AIGP), the Atlantic High-skilled Program (AHSP), and the Atlantic Intermediate-skilled Program (AISP)	Provincial	• Workers in specific skilled and semi-skilled sectors designated as desirable, varying by province (i.e., healthcare professionals, engineers, technicians, and those working in the tech sector).	• Have 1 year of work experience in qualifying NOC code fields / Training, Education, Experience and Responsibilities (TEER) categories (time limit increased from within the last the 3 to last 5 years, suspended for EMPP applicants). • Completion of an English language test meeting the Canadian Language Benchmarks (CLB). • Full-time and non-seasonal employment for at least one year. • Proof of sufficient settlement funds (with loans available for EMPP participants).
Rural and Northern Immigration Pilot (RNIP)	Local	• Workers in specific skilled and semi-skilled sectors designated as desirable, varying by locality (i.e., healthcare professionals, engineers, technicians, and those working in the tech sector). • Slightly more inclusive than the AIP, allowing for positions in fields such as agriculture, cleaning, and oil fields.	• Have 1 year of work experience in qualifying NOC code fields / Training, Education, Experience and Responsibilities (TEER) categories (time limit increased from within the last the 3 to last 5 years, suspended for EMPP applicants). • Job offer that is full time, non-seasonal, for an indeterminate period, and at a required NOC code skill level. • Completion of an English language test meeting the Canadian Language Benchmarks (CLB).

			• Education from a Canadian secondary or post-secondary institution, or an Educational Credential Assessment (ECA) that is less than 5 years old if foreign education. • Applicants must intend to remain living in the rural community where they resettle. • Applicants must meet the unique community-specific requirements for the community in which they will live.[305]

[305] The unique community-specific requirements for each participating RNIP locality are available at the following links: North Bay, ON; Sudbury, ON; Timmins, ON; Sault Ste. Marie, ON; Thunder Bay, ON; Brandon, MB; Altona/Rhineland, MB; Moose Jaw, SK; Claresholm, AB; Vernon, BC; West Kootenay (Trail, Castlegar, Rossland, Nelson), BC.